



Keystone Town Council Agenda

The Keystone Town Council will have a Regular Meeting on November 12, 2024, at 7:00 p.m. at 1628 Sts. John Rd, Keystone, CO 80435.

The Town of Keystone conducts hybrid meetings. This meeting will be held in person at Keystone Town Hall and will also be broadcast live over Teams. [Join the live broadcast available by computer here.](#) If you will need special assistance in order to attend any of the Town's public meetings, please notify the Town Clerk's Office at (970) 450-3500x1 via phone, or clerk@keystoneco.gov via e-mail, at least 72 hours in advance of the meeting.

- I. CALL TO ORDER, ROLL CALL**
- II. APPROVAL OF AGENDA**
- III. COMMUNICATIONS TO COUNCIL**
 - A. Public Comment (Pursuant to Resolution 2024-18, comment is limited to non-agenda items only; 3-minute time limit please)*
- IV. CONSENT**
 - A. FIRST READING OF ORDINANCES**
 - 1. Ordinance 2024-O-14, An Ordinance of Town Council of the Town of Keystone, Colorado, Implementing The Voter-Approved 2% Lodging Tax And Providing Penalties For The Violation Thereof**
 - B. RESOLUTIONS**
 - C. MEETING MINUTES**
 - 1. October 22, 2024 – Meeting Minutes**
 - D. EXCUSED ABSENCES**
 - E. OTHER**
 - 1. TOK24-014: Class 2 Site Plan Amendment 04 - Kindred Resort at Keystone**

2. **TOK24-015: Class 2 Sign Permit for Steep & Snowbird business located at 2311 US Hwy 6, Gateway Building**

V. NEW BUSINESS

A. CONSIDERATION OF ORDINANCES (SECOND READING/PUBLIC HEARING)

1. **Ordinance 2024-12, An Ordinance of Town Council of the Town of Keystone, Colorado, Adopting by Reference The 2024 Edition Of The Model Traffic Code Of Colorado Promulgated By The Colorado Department Of Transportation With Amendments, And Setting Forth In Full The Penalty Provisions For Violations Thereof**
2. **Ordinance 2024-13, An Ordinance of Town Council of the Town of Keystone, Colorado, Designating the Site Selection of Arterial Highways, Interchanges, and Collector Highways, the Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems and Major Extension of Existing Domestic Water and Sewage Treatment Systems, and the Site Selection and Construction of Major Facilities of a Public Utility as Matters of State Interest, and Enacting the Town of Keystone Areas and Activities of State Interest Governing the Designation, Permitting, Regulation, and Administration of Matters of State Interest, and Providing Penalties for Violations Thereof**

B. RESOLUTIONS

1. **Resolution 2024-68, A Resolution of Town Council of the Town of Keystone, Colorado, Approving Amended Town Council Bylaws**
2. **Resolution 2024-70, A Resolution of Town Council of the Town of Keystone, Colorado, Authorizing Intergovernmental Agreement for Continuation Of Services By Summit County And Consenting To Enforcement Of Summit County Regulations**
3. **Resolution 2024-71, A Resolution of Town Council of the Town of Keystone, Colorado, Approving Maintenance of Certain Roads**

C. OTHER

VI. PLANNING MATTERS

VII. REPORT OF TOWN MANAGER AND STAFF

- VIII. REPORT OF MAYOR AND COUNCIL**
- IX. OTHER MATTERS (Town Manager/Mayor/Councilmember may bring up items on other matters that are not on the agenda)**
- X. SCHEDULED MEETINGS**
- XI. EXECUTIVE SESSION**

Executive Session pursuant to C.R.S. Section 24-6-402(4)(b) and (4)(e)(I) to receive legal advice concerning a negotiation of a contract for law enforcement services as well as to determine positions relative to the negotiation of the contract for law enforcement services, develop strategies for such negotiations, and instruct negotiators accordingly.

- XII. ADJOURNMENT**

TOWN OF KEYSTONE, COLORADO

STAFF REPORT

TO: Mayor & Town Councilmembers
THROUGH: John Crone, Town Manager
Lindsay Hirsh, Community Development Director
FROM: Jennifer Madsen, Town Attorney
DATE: November 12, 2024
SUBJECT: [FIRST READING] Ordinance 2024-O-14, An Ordinance of
Town Council of the Town of Keystone, Colorado,
Implementing The Voter-Approved 2% Lodging Tax And
Providing Penalties For The Violation Thereof

Executive Summary:

On November 5, 2024, the Keystone voters who voted in the election overwhelmingly approved a ballot issue to impose a 2% lodging tax. The tax will be effective on January 1, 2025. To implement that tax, it is recommended that Town Council adopt an ordinance related to the process for the collection of the lodging tax.

This ordinance is also on the consent agenda for first reading and if approved on first reading, it will be scheduled for second reading and the public hearing on November 26, 2024, for an effective date of January 1, 2025.

Recommendation:

Staff recommends that Council approve Ordinance 2024-O-14 on first reading.

Background:

Draft Ordinance No. 2024-O-14 implements the voter-approved 2% lodging tax within the Town of Keystone, to be effective starting January 1, 2025. Here is an overview of its main elements:

1. Purpose: The tax is levied on short-term lodging rentals to fund capital infrastructure, highway safety, maintenance, and public safety projects. A special fund is created named the Lodging Tax Fund [Section 8].
2. Scope and Definitions:
 - The lodging tax applies to any person renting out accommodations such as hotels, motels, condos, and similar facilities [Definition of “lodging” in Section 3].
 - It defines key terms such as "lodging," "marketplace facilitator," and "vendor" [Section3].
3. Collection and Remittance:
 - Vendors must collect the tax from purchasers and remit it to the town monthly [Section 7].
 - Marketplace facilitators are responsible for collecting and remitting the tax for sales made on their platforms [Section 7].
 - Vendors must maintain records for three years for auditing purposes [Section 6]. The three-year time frame is consistent with the statute of limitations for unpaid tax.
4. Exemptions [Section 5]:
 - Lodging for continuous stays of 30 days or more.
 - Transactions involving the U.S. Government, the State of Colorado, and qualified 501(c)(3) organizations.
5. Enforcement and Penalties [Section 13]:
 - Penalties for non-compliance include fines, interest on unpaid taxes, and potential audits.
 - Violations are subject to additional fines and legal proceedings, including liens on property and potential public auctions for unpaid taxes.
6. Administration:
 - The Town Manager (or designee) is empowered to oversee tax collection, audit records, and enforce compliance.
 - Confidentiality of tax information is protected, except for audits or as required by law. This confidentiality is consistent with state law.

7. Appeals and Disputes:

- Vendors may appeal tax assessments within 10 days and must present their case in writing to the Town Manager. The Town Manager issues a decision on the assessment and the vendor can appeal that decision to the district court.

In sum, the ordinance ensures compliance with the lodging tax by setting detailed rules for tax collection, recordkeeping, and penalties for violations.

Alternatives:

Town Council may provide alternative direction on implementation of the lodging tax ordinance.

Financial Considerations:

The financial considerations relate to the approval of the lodging tax. There are no financial considerations regarding the adoption of this ordinance other than administrative staff time in collecting the lodging tax.

Previous Council Actions:

Town Council discussed the lodging session during work session in June, July and August of 2024 and adopted a resolution sending the 2% lodging tax to the voters for the November 5 election.

Next steps:

The Ordinance is on first reading on the consent agenda. If approved on first reading, there will be a second reading and public hearing on November 26 with the purpose of adopting the ordinance with a January 1, 2025, effective date.

Suggested Motions:

Because this ordinance is on the Consent Agenda, a motion to approve the consent agenda will approve this ordinance on first reading.

Attachment:

- Ordinance 2024-O-14, An Ordinance of Town Council of the Town of Keystone, Colorado, Implementing The Voter-Approved 2% Lodging Tax And Providing Penalties For The Violation Thereof

**TOWN OF KEYSTONE
ORDINANCE NO. 2024-O-14**

**AN ORDINANCE OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO,
IMPLEMENTING THE VOTER-APPROVED 2% LODGING TAX AND PROVIDING
PENALTIES FOR THE VIOLATION THEREOF**

WHEREAS, the Town of Keystone, Colorado (“Town”) is a home rule municipality, duly organized and existing under the laws of the state of Colorado; and

WHEREAS, under the Taxpayer’s Bill of Rights, Article X, Section 20(4) of the Colorado Constitution (“TABOR”), governmental entities are required to obtain voter approval in advance for any tax rate increase; and

WHEREAS, by Resolution 2024-58, the Town Council (“Council”) approved the submittal to the registered voters of the Town of Keystone a ballot question regarding the imposition of a lodging tax of two percent (2%) on short-term rental lodging within the Town of Keystone, with proceeds of such tax to be used for capital improvements and public safety; and

WHEREAS, on November 5, 2024, a majority of the qualified electors the Town of Keystone casting ballots in the election voted in favor of the 2% lodging tax on short-term; and

WHEREAS, in accordance with that mandate, the Town Council implements a lodging tax on short-term lodging in the Town.

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of Keystone, Colorado, as follows:

Section 1. Findings. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council of the Town of Keystone.

Section 2. Legislative Intent. The legislative intent of the Town Council in enacting this Ordinance is that every person who, for consideration, leases or rents any hotel room, motel room or other accommodation located in the Town shall pay, and every person who furnishes for lease or rental any such accommodation shall collect, the tax imposed by this Ordinance.

Section 3. Definitions. For purposes of this Ordinance, the following words shall have the following meanings:

Lodging means rooms or accommodations for overnight use furnished by any person or the representative of any person to any person who for consideration uses, possesses, occupies or has the right to use, possess or occupy any such room or accommodation in

a hotel, condominium hotel, apartment hotel, condominium, lodging house, motel, motor hotel, guest house, guest ranch, resort, mobile home, mobile home park, auto court, inn, trailer court, trailer park or hotel, under any concession, permit, lease, contract, license to use or other similar arrangement.

Marketplace means a physical or electronic forum, including, but not limited to, a store, a booth, an internet website, a catalog, or a dedicated sales software application, where the remote sale of lodging within the town is offered.

Marketplace facilitator means

1. A person who:
 - a. Contracts with a marketplace seller or multichannel seller to facilitate for consideration, regardless of whether or not the consideration is deducted as fees from the transaction, the remote sale of lodging within the town through the person's marketplace;
 - b. Engages directly or indirectly, through one (1) or more affiliated persons, in transmitting or otherwise communicating the offer or acceptance between a purchaser and the marketplace seller or multichannel seller; and
 - c. Either directly or indirectly, through agreements or arrangements with third parties, collects payment from the purchaser on behalf of the seller.
2. *Marketplace facilitator* does not include a person that exclusively provides internet advertising that does not otherwise meet this definition.

Marketplace seller means a person, regardless of whether or not the person is engaged in business in the town, which has an agreement with a marketplace facilitator and offers the remote sale of lodging within the town through a marketplace owned, operated, or controlled by a marketplace facilitator.

Multichannel seller means a vendor that offers for the remote sale of lodging within the town through a marketplace owned, operated, or controlled by a marketplace facilitator, and through other means.

Purchase or Sale means the furnishing for consideration by any person of lodging within the Town.

Purchaser means any person exercising the taxable privilege of purchasing lodging.

Tax means either the tax payable by the vendor, or the aggregate amount of taxes due from the vendor, during the period for which the vendor is required to pay the occupation tax on the provision of lodging under this Ordinance.

Taxpayer means the vendor obligated to pay the tax under the terms of this Ordinance.

Vendor means a person making sales of or furnishing lodging to a purchaser in the Town, and includes, but is not limited to, a marketplace facilitator, a marketplace seller, or multichannel seller.

Section 4. Levy of tax. Effective January 1, 2025, there is hereby levied and shall be collected and paid a lodging excise tax of two percent (2%) by every person exercising the taxable privilege of purchasing lodging on the purchase price paid or charged for such lodging.

Section 5. Exempt Transactions. The following entities and transactions are exempt from the duty to pay tax under this Ordinance but not the duty to collect and remit the tax levied hereby:

- (1) All lodging as defined in this Ordinance furnished to any person who resides continuously for a period of thirty (30) consecutive days or more in rooms or accommodations or has the right to reside pursuant to any written concession, permit, contract, license to use or other written arrangement.
- (2) The United States Government, the State of Colorado, its departments and institutions and the political subdivisions thereof including the town, when acting in their governmental capacities and performing governmental functions and activities; and
- (3) Charitable, religious, and eleemosynary organizations that have received from the Internal Revenue Service status under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, while in the conduct of their regular charitable, religious or eleemosynary functions and activities.

Section 6. Collection of tax.

- (a) Every vendor making sales to a purchaser in the Town, which are taxable under the provisions of this Ordinance, at the time of making such sales is required to collect the tax imposed by section 4 from the purchaser.
- (b) The tax to be collected as provided by subsection (a) of this section shall be stated and charged separately from the sale price and shown separately from the sale price on any record thereof at the time when the sale is made or at the time when evidence of the sale is made or at the time when evidence of the sale is issued or employed by the vendor; provided, that when added such tax shall constitute a part of such purchase price or charge and shall be a debt from the purchaser to the vendor until paid and shall be recoverable at law in the same manner as other debts. The tax shall be paid by the purchaser to the vendor, as trustee for and on

account of the town, and the vendor shall be liable for the collection thereof and on account of the town.

- (c) Taxes paid on the amount of gross sales which are represented by accounts which are found to be worthless and are actually and properly charged off as bad debts for the purpose of the income tax imposed by the laws of the state may be credited upon a subsequent payment of the tax herein provided; but if any such accounts are thereafter collected by the taxpayer, a tax shall be paid upon the amount so collected.
- (d) With respect to sales of lodging within the town made by marketplace sellers in or through a marketplace facilitator's marketplace, a marketplace facilitator has all the liabilities, obligations, and rights under this Ordinance.
- (e) The burden of proving that any transaction is exempt from the tax shall be upon the vendor.
- (f) It shall be the duty of every vendor to maintain, keep and preserve suitable records of all sales made by the vendor and such other books or accounts as may be required by the Town Manager or designee in order to determine the amount of the tax for which the vendor is liable under the Ordinance. It shall be the duty of every such vendor to keep and preserve for a period of three (3) years all such books, invoices and other records and the same shall be open for examination by the Town Manager or designee.

Section 7. Vendor responsible for payment of tax.

- (a) Amount: Every vendor shall add the tax imposed by section 4 to the purchase price or charge for lodging, and the vendor shall be liable and responsible to the town for the payment on a monthly basis of an amount equivalent to such tax on all gross taxable sales, and also liable and responsible to the town for any collection in excess of that equivalent amount. Every vendor shall on its return round each calculation, as directed on such form as the finance director may require, to the nearest whole dollar and remit the rounded amount. In rounding under this section, any amount of forty-nine cents (\$0.49) or less shall be rounded down, and any amount of fifty cents (\$0.50) or higher shall be rounded up.
- (b) Returns: Every vendor shall on or before the twentieth (20) day of each month make a return to the Town Manager or designee for the preceding calendar month and remit to the finance director simultaneously therewith the total amount due the town as provided by subsection (a) of this section. Returns of the vendor, or the vendor's duly authorized agent, shall contain such information and be made in such a manner and upon such forms as the finance director may prescribe, and the finance director may, by regulation duly adopted, extend the time up to one (1) year for making returns and paying the tax due.

(c)

1. A marketplace facilitator engaged in business in the town is required to collect and remit lodging tax on all taxable sales of lodging within the town made by the marketplace facilitator, or facilitated by it for marketplace sellers or multichannel sellers to customers in the town, whether or not the marketplace seller for whom sales are facilitated would have been required to collect lodging tax had the sale not been facilitated by the marketplace facilitator.
2. A marketplace facilitator shall assume all the duties, responsibilities, and liabilities of a vendor. Marketplace facilitators shall be liable for the lodging taxes collected from marketplace sellers or multichannel sellers. The town may recover any unpaid lodging taxes, penalties, and interest from the marketplace facilitator that is responsible for collecting on behalf of marketplace sellers or multichannel sellers.
3. The liabilities, obligations, and rights set forth under this section are in addition to any duties and responsibilities the marketplace facilitator has under this Ordinance if it also offers lodging within the town for sale through other means.
4. A marketplace seller, with respect to sale of lodging within the town made in or through a marketplace facilitator's marketplace, does not have the liabilities, obligations, or rights of a vendor under this section if the marketplace seller can show that such sale was facilitated by a marketplace facilitator:
 - i. With whom the marketplace seller has a contract that explicitly provides that the marketplace facilitator will collect and remit lodging tax on all sales of lodging within the town subject to tax under this Ordinance; or
 - ii. From whom the marketplace seller requested and received in good faith a certification that the marketplace facilitator is registered to collect lodging tax and will collect lodging tax on all sales of lodging within the town subject to tax under this Ordinance made in or through the marketplace facilitator's marketplace.
5. If a marketplace seller makes a sale that is not facilitated by a licensed marketplace facilitator in a marketplace, the marketplace seller is subject to all of the same licensing, collection, remittance, filing and recordkeeping requirements as any other vendor.
6. With respect to any sale of lodging within the town, the town shall solely audit the marketplace facilitator for sales of lodging within the town made by marketplace sellers or multichannel sellers but facilitated by the

marketplace. The town will not audit or otherwise assess tax against marketplace sellers or multichannel sellers for sales facilitated by a marketplace facilitator.

- (d) All sums of money paid by the purchaser to the vendor as taxes imposed by this Ordinance shall be an remain public money, the property of the Town, in the hands of vendor, and the vendor shall hold the same in trust for the sole use and benefit of the town until paid to the Town Manager as herein provided. The vendor shall be in violation of this Ordinance for failure to pay such taxes.

Section 8. Lodging Tax Fund created. There is hereby established a Lodging Tax Fund. The revenue derived from the lodging tax shall be deposited in the Lodging Tax Fund. The revenues in the Lodging Tax Fund shall only be spent on capital infrastructure, projects, Highway 6 safety, maintenance of infrastructure, and public safety.

Section 9. Audit of records.

- (a) For the purpose of ascertaining the correct amount of the occupation tax on the provision of lodging due from any person engaged in such business in the Town under this Ordinance, the Town Manager, or designee, or an authorized agent may conduct an audit by examining any relevant books, accounts and records of such person.
- (b) All books, invoices, accounts and other records shall be made available within the Town limits and be open at any time during regular business hours for examination by the Town Manager, or designee, or an authorized agent. If any taxpayer refuses to furnish any of the foregoing information voluntarily when requested, the Town Manager may issue a subpoena to require that the taxpayer or its representative attend a hearing or produce any such books, accounts and records for examination.
- (c) Any exempt organization or person claiming exemption under the provisions of this Ordinance is subject to audit in the same manner as any other person engaged in the lodging business in the Town.

Section 10. Tax overpayments and deficiencies.

An application for refund of tax monies paid in error or by mistake shall be made within three (3) years after the date of payment for which the refund is claimed. If the Town Manager or designee determines that within three (3) years of the due date, a vendor overpaid the occupation tax on the provision of lodging, the Town shall process a refund or allow a credit against a future remittance from the same taxpayer. If at any time the Town Manager or designee determines the amount paid is less than the amount due under this Ordinance, the vendor shall pay the difference together with the interest within

ten (10) days after receiving written notice and demand. The Town Manager may extend that time for good cause.

Section 11. Tax information confidential.

- (a) All specific information gained under the provisions of this Ordinance that is used to determine the tax due from a taxpayer, whether furnished by the taxpayer or obtained through audit, shall be treated by the Town and its officers, employees or legal representatives as confidential unless otherwise required by law. Except as directed by judicial order or as provided in this Ordinance, no Town officer, employee, or legal representative shall divulge any confidential information. If directed by judicial order, the officials charged with the custody of such confidential information shall be required to provide only such information as is directly involved in the action or proceeding. Any Town officer or employee who knowingly divulges any information classified herein as confidential, in any manner, except in accordance with proper judicial order, or as otherwise provided in this Ordinance or by law, shall be guilty of a violation hereof.
- (b) The Town Manager or designee may furnish to officials of any other governmental entity who may be owed sales tax any confidential information, provided that said jurisdiction enters into an agreement with the Town to grant reciprocal privileges to the Town.
- (c) Nothing contained in this Section shall be construed to prohibit the delivery to a taxpayer or their duly authorized representative a copy of such confidential information relating to such taxpayer, the publication of statistics so classified as to prevent the identification of particular taxpayers, or the inspection of such confidential information by an officer, employee, or legal representative of the Town.

Section 12. Forms and regulations.

The Town Manager or designee shall have the authority to adopt, amend, alter, and repeal administrative rules and regulations as may be necessary for the proper administration of this Ordinance and the collection and enforcement of the tax obligations imposed hereby. The Town Manager or designee is also authorized to prescribe forms to aid in the making of returns, the ascertainment, assessment and collection of said occupation tax on the provision of lodging, and in particular and without limiting the general language of this Ordinance, to prescribe:

- (1) A form of report on the provision of lodging to be supplied to all vendors;
- (2) The records which vendors providing lodging are to keep concerning the tax imposed by this Ordinance.

Section 13. Enforcement and penalties.

- (a) It shall be unlawful for any person to intentionally, knowingly, or recklessly fail to pay the tax imposed by this Ordinance, or to make any false or fraudulent return, or for any person to otherwise violate any provisions of this Ordinance. Each day, or portion thereof, that any violation of this Ordinance continues shall constitute a separate offense.
- (b) A penalty in the amount of ten percent (10%) of the tax due or the sum of ten dollars (\$10.00), whichever is greater, shall be imposed upon the vendor and become due if the tax is not remitted as required by this Ordinance, and one and one-half percent (1.5%) interest shall accrue each month on the unpaid balance. The Town Manager is hereby authorized to waive, for good cause shown, any penalty assessed.
- (c) If any part of a deficiency is due to negligence or intentional disregard of regulations, but without intent to defraud, there shall be added ten percent (10%) of the total amount of the deficiency together with interest from the vendor required to file a return. If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added fifty percent (50%) of the total amount of the deficiency together with interest and in such case, the whole amount of the unpaid tax, including the additions, shall become due and payable ten (10) days after written demand by the Town Manager.
- (d) If any vendor fails to make a return and pay the tax imposed by this Ordinance, the Town may make an estimate, based upon available information of the amount of tax due and add the penalty and interest provided above. The Town shall mail notice of such estimate, by certified mail and regular mail, to the vendor at the address as indicated in the Town records. Such estimate shall thereupon become an assessment, and such assessment shall be final and due and payable from the taxpayer to the Town Manager ten (10) days from the date of mailing of the notice; provided, however, that within the ten-day period such delinquent taxpayer may petition the Town Manager for a revision or modification of such assessment and shall, within such ten-day period, furnish the Town Manager with a written appeal petition and include the documents, facts and figures showing the correct amount of such taxes due and owing.
- (e) Such appeal petition shall be in writing and the facts and figures submitted shall be submitted either in writing or orally and shall be given by the taxpayer under penalty of perjury. After review of the petition, the Town Manager may modify such assessment in accordance with the facts submitted in order to effectuate the provisions of this Ordinance. Such assessment shall be considered the final order of the Town Manager, and may be reviewed under the Rule 106(a)(4) of the Colorado rules of Civil Procedure, provided that the taxpayer gives written notice to the Town Manager of such intention within ten (10) days after of the final order of assessment.

Section 14. Tax constitutes lien.

- (a) The tax imposed by this Ordinance, together with the interest and penalties herein provided and the costs of collection which may be incurred, shall be and, until paid, remain a first and prior lien superior to all other liens on all the tangible personal property of a taxpayer within the Town and may be foreclosed by seizing under distraint warrant and selling so much thereof as may be necessary to discharge the lien. Such distraint warrant may be issued by the Town Manager whenever the taxpayer is in default in the payment of the tax, interest, penalty or costs. Such warrant may be served and the goods subject to such lien seized by the Summit County Sheriff or any duly authorized employee of the Town. The property so seized may be sold by the agency seizing the same or by the Town Manager at public auction after ten (10) days have passed following an advertised notice in a newspaper published in the Town, in the same manner as is prescribed by law in respect to executions against property upon judgment of a court of record, and the remedies of garnishment shall apply.
- (b) Whenever the business or property of a taxpayer subject to this Ordinance is placed in receivership, bankruptcy or assignment for the benefit of creditors, or seized under distraint for taxes, all taxes, penalties and interest imposed by this Ordinance, and for which the taxpayer is in any way liable under the terms of this Ordinance, shall be a prior and preferred lien against all the property of the taxpayer, except as to other tax liens which have attached prior to the filing of the notice. No sheriff, receiver, assignee or other officer shall sell the property of any person subject to this Ordinance under process or order of any court, without first ascertaining from the Town the amount of any taxes due and payable under this Ordinance and, if there are any such taxes due, owing and unpaid, it shall be the duty of such officer to first pay the amount of the taxes out of the proceeds of such sale before making payment of any monies to any judgment creditor or other claimants of whatsoever kind or nature, except the costs of the proceedings and other preexisting tax liens as above provided.
- (c) The tax imposed by this Ordinance shall be, and remain, a first and prior lien superior to all other liens on the real property and appurtenant premises at which the taxable transactions occurred.

Section 15. Recovery of unpaid tax.

- (a) The Town may also treat any such taxes, penalties, costs or interest due and unpaid as a debt due the Town from the taxpayer.
- (b) In case of failure to pay the taxes, or any portion thereof, or any penalty, costs or interest thereon, when due, the Town may recover at law the amount of such taxes, penalties, costs, the reasonable value of any attorney's time or the reasonable attorney's fees charged, plus interest, in any county or district court of the county

wherein the taxpayer resides or had a principal place of business (at the time the tax became due) having jurisdiction of the amount sought to be collected.

- (c) The return of the taxpayer or the assessment made by the Town shall be prima facie proof of the amount due.
- (d) Such actions may be actions in attachment, and writs of attachment may be issued to the Summit County Sheriff, and in any such proceeding no bond shall be required of the Town Manager, nor shall any sheriff's deputy require of the Town an indemnifying bond for executing the writ of attachment or writ of execution upon any judgment entered in such proceedings. The Town may prosecute appeals in such cases without the necessity of providing bond therefor.
- (e) The Town may certify the amount of any delinquent tax, plus interest, penalties and the costs of collection, as a charge against the property at which the taxable transaction occurred to the Summit County Treasurer for collection in the same manner as delinquent ad valorem taxes.

Section 16. Hearings, subpoenas and witness fees.

- (a) Hearings before the Town pursuant to the provisions of this Ordinance shall be held in accordance with this Ordinance and rules and regulations promulgated by the Town. Any subpoena issued pursuant to this Ordinance may be enforced by the Municipal Judge pursuant to Section 13-10-112(2), C.R.S. The fees of witnesses for attendance at hearings shall be the same as the fees of witnesses before the district court, such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Town, such fees shall be paid in the same manner as other expenses under the terms of this Ordinance, and, when a witness is subpoenaed at the instance of any party to any such proceeding, the Town may require that the cost of service of the subpoena and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Town, at its discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court of record.
- (b) The Municipal Judge, upon the application of the Town, may compel the attendance of witnesses, the production of books, papers, records or memoranda, and the giving of testimony before the Town's duly authorized hearing officers, by an action for contempt, or otherwise, in the same manner as production of evidence may be compelled before the Court.

Section 17. Depositions.

The Town or any party in an investigation or hearing before the Town Manager may cause the deposition of witnesses residing within or without the State to be taken in

the manner prescribed by law for like depositions in civil actions in courts of this State and to that end compel the attendance of witnesses and the production of books, papers, records or memoranda.

Section 18. Statute of limitations.

- (a) Except as otherwise provided in this Section, the taxes for any period, together with interest thereon and penalties with respect thereto, imposed by this Ordinance shall not be assessed, nor shall notice of lien be filed, or distraint warrant be issued, or suit for collection be instituted, or any other action to collect the same be commenced, more than three (3) years after the date on which the tax was or is payable. Nor shall any lien continue after such period, except for taxes assessed before the expiration of such three-year period, notice of lien with respect to which has been filed prior to the expiration of such period.
- (b) In case of a false or fraudulent return with intent to evade taxation, the tax, together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes may be commenced at any time.
- (c) Before the expiration of such period of limitation, the taxpayer and the Town Administrator may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.

Section 19. Should any one or more sections or provisions of this Ordinance or of the Code provisions enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or of such Code provision, the intention being that the various sections and provisions are severable.

Section 20. Any and all Ordinances or Codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such Ordinance or Code or part thereof shall not revive any other section or part of any Ordinance or Code provision heretofore repealed or superseded.

Section 21. Codification. This ordinance may be codified and numbered for purposes of codification without the need for further approval by the Town Council.

Section 22. Effective Date. After adoption by the Town Council, this ordinance shall take effect on January 1, 2025.

INTRODUCED, READ AND PASSED AS AN ORDINANCE, ON FIRST READING, AND SCHEDULED FOR PUBLIC HEARING ON _____, AT A REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO, THIS

_____ DAY OF _____, 2024.

Kenneth D. Riley, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

READ, PASSED AND ADOPTED WITH A ROLL CALL VOTE OF ___ IN FAVOR AND ___ OPPOSED ON SECOND READING, AT A REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO, THIS _____ DAY OF _____, 2024.

Kenneth D. Riley, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney



Keystone Town Council Minutes

A Regular Town Council Meeting of the Keystone Town Council was held on October October 22, 2024, at 7:00 p.m., at 1628 Sts John Road, Keystone, CO, 80435. Full and timely notice of the meeting had been posted and a quorum of the body was present.

I. CALL TO ORDER, ROLL CALL

Mayor Riley called the meeting to order at 7:00 p.m. The roll was called, and it was found there were present and participating at that time the following members: Council Member Gretchen Davis, Councilmember Jonathan Hagenow, Councilmember Carol Kerr, Councilmember Dan Sullivan, Councilmember Valerie Thisted, and Mayor Ken Riley. Councilmember Aaron Parmet arrived at 7:05 p.m.

II. APPROVAL OF AGENDA

Mayor Riley presented the agenda.

Councilmember Hagenow moved to approve the agenda as presented.
Councilmember Davis seconded,

By hand vote, the motion passed unanimously, and the agenda was approved as presented.

III. PROCLAMATION

A. Proclamation Recognizing Wine in the Pines

Town Manager John Crone presented the proclamation to the council.

Councilmember Kerr moved to pass an amended version of the Proclamation correcting the dates to read “October 25 and 26” and amending the title of the event to read “Wine in the Pines Fundraising Event”. Councilmember Parmet seconded.

By hand vote, the motion passed unanimously, and the proclamation was approved as amended.

IV. COMMUNICATIONS TO COUNCIL

A. Public Comment

Mayor Riley opened the floor for public comment.

The following members of the public spoke: Julie Olsen from Loveland Pass Village provided comments on decorum of Town Council Meetings and development in the Town of Keystone. Julie Sabor from Loveland Pass Village provided feedback about the experience of providing feedback to Town Council via webforms. Mitch Malakar from Loveland Pass Village provided feedback on the public comment process during public meetings. Christy Camp from Ski Tip expressed a continued desire for the Town to focus on sustainability as it charts its path.

Seeing no further members of the public wishing to speak, Mayor Riley closed the public comment period.

V. CONSENT AGENDA

A. FIRST READING OF ORDINANCES

1. Ordinance 2024-13, An Ordinance of Town Council of the Town of Keystone, Colorado, Designating the Site Selection of Arterial Highways, Interchanges, and Collector Highways, the Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems and Major Extension of Existing Domestic Water and Sewage Treatment Systems

and the Site Selection and Construction of Major Facilities of a Public Utility as Matters of State Interest and Enacting the Town of Keystone Areas and Activities of State Interest Governing the Designation, Permitting, Regulation, and Administration of Matters of State Interest, and Providing Penalties and Violations Thereof.

B. Resolutions

1. Resolution 2024-62, A Resolution of Town Council of the Town of Keystone, Colorado, Approving an Intergovernmental agreement Regarding Liquor Code Regulation and Enforcement at Rive Course Grill.

2. Resolution 2024-63, A Resolution of Town Council of the Town of Keystone, Colorado, Approving an Intergovernmental Agreement Regarding Liquor Code Regulation and Enforcement at Mountain House Lodge.

C. Meeting Minutes

1. October 8, 2024- Meeting Minutes

D. Excused Absences

1. Gretchen Davis – November 26, 2024 – Remote Attendance

E. Other

1. Accounts Payable List

Mayor Riley presented the consent agenda.

Councilmember Sullivan moved to approve the consent agenda as presented.

Councilmember Hagenow seconded.

By hand vote, the motion passed unanimously, and the consent agenda was approved as presented.

VI. NEW BUSINESS

A. Consideration of Ordinances (Second Reading / Public Hearing)

B. Resolutions

1. Resolution 2024-60, A Resolution of Town Council of the Town of Keystone, Colorado, Approving an Intergovernmental Agreement for Summit County Childcare Tuition Assistance

Town Manager John Crone presented Resolution 2024-60, Approving an Intergovernmental Agreement for Summit County Childcare Tuition Assistance.

Councilmember Sullivan moved to approve Resolution 2024-60. Councilmember Kerr seconded.

By hand vote, the motion passed unanimously, and Resolution 2024-60 was approved.

2. Resolution 2024-67, A Resolution of Town Council of the Town of Keystone, Colorado, Instructing Staff to Complete the Proposition 123 Commitment

Town Manager John Crone presented Resolution 2024-67, Instructing Staff to Complete the Proposition 123 Commitment.

Councilmember Hagenow moved to approve Resolution 2024-67. Councilmember Sullivan seconded.

By hand vote, the motion passed unanimously, and Resolution 2024-67 was

approved.

3. Resolution 2024-68, A Resolution of Town Council of the Town of Keystone, Colorado, Approving Amended Town Council Bylaws.

Councilmember Hagenow moved to continue Resolution 2024-68, Approving Amended Town Council Bylaws, to the meeting on November 12, 2024.

Councilmember Kerr seconded.

By hand vote, the motion passed unanimously, and discussion of Resolution 2024-68 was continued to the meeting on November 12, 2024.

C. Land Use Matter

1. TOK24-011: Class 4 Appeal of the Community Development Director's approval of a Class 2 Review for a Conditional Use Permit (CUP) for a Short-Term Rental (STR) located at 31 River Overlook Court

Mayor Riley opened the appeal hearing for the review for a Conditional Use Permit for a Short-Term Rental located at 31 River Overlook Court.

Community Development Director Lindsay Hirsh provided a report of the staff findings based upon review of the application for Conditional Use Permit for a Short-Term Rental located at 31 River Overlook Ct. He provided the criteria for review that was considered in review of this application.

Following the staff presentation, Thomas Barry, the applicant, provided testimony related to the application and how it met the criteria for consideration.

Following testimony from the applicant, Mayor Riley opened the floor for public comment on the application.

The following members of the public spoke: Tammy Ramsay spoke in support of the application. Zach Lemaster spoke in support of the application. Steve Martin spoke in opposition of the application. Peter Madland spoke in favor of approving a CUP for a shorter period of time.

Councilmember Sullivan moved to approve Resolution 2024-69, Approving a Conditional Use Permit (CUP) for a Short-Term Rental (STR) located at 31 River Overlook Court. Councilmember Kerr Seconded.

Councilmember Parmet moved to amend the Resolution, to approve the CUP for a duration of two years instead of five. Councilmember Thisted seconded.

By hand vote, the result was:

Ayes: Councilmember Davis, Councilmember Parmet, Councilmember Thisted (3)

Nays: Councilmember Hagenow, Councilmember Kerr, Councilmember Sullivan, Mayor Riley (4)

Abstain: (0)

Absent: (0)

The motion failed, and the discussion returned to the original Resolution.

Mayor Riley called the question on Resolution 2024-69, as presented in the agenda packet.

By hand vote, the result was:

Ayes: Councilmember Hagenow, Councilmember Kerr, Councilmember Parmet, Councilmember Sullivan, Mayor Riley (5)

Nays: Councilmember Davis, Councilmember Thisted, (2)

Abstain: (0)

Absent: (0)

The motion passed, and Resolution 2024-69 was approved as presented.

D. Other

1. Public Hearing: Fiscal Year 2025 Budget Presentation Information

Mayor Riley moved to extend the meeting to discuss this item. Councilmember Hagenow seconded.

By hand vote, the result was:

Ayes: Councilmember Davis, Councilmember Hagenow, Councilmember Kerr, Councilmember Parmet, Councilmember Sullivan, Mayor Riley (6)

Nays: Councilmember Thisted (1)

Abstain: (0)

Town Manager John Crone introduced the Fiscal Year 2025 Budget.

Mayor Riley opened the floor for public comment.

Seeing no public comments, Mayor Riley closed the floor for public comment.

VII. PLANNING MATTERS.

Community Development Director Lindsay Hirsh indicated that the Planning Commission selected SE Group as the consultant for the Master Plan. Town Council asked that SE Group provide a presentation before the contract is signed.

Construction is progressing with the Brightwood Development Project. Town Staff was instructed to provide a press release related to the sidewalk included in the most recently submitted designs for the Brightwood Development Project.

VIII. REPORT OF TOWN MANAGER AND STAFF

Town Manager John Crone provided an update on the upcoming HOA meetings to

be attended by Town Councilmembers and himself. He reported that the East Keystone Bridge is being repaired.

He plans to meet with Summit County to prioritize projects for the Colorado Department of Transportation. The outlined priorities for the Town are addressing problematic intersections, creating multi-modal pathways and walkways along U.S. Highway 6, and planning for potential parking issues on U.S. Highway 6.

IX. REPORT OF MAYOR AND COUNCIL

Council Member Parmet reported on excavation occurring by Lower Tenderfoot, The Sanctuary, Enclave and Loveland Pass Village. They are decommissioning an old unused trail - 9149 and creating a new one. The trail is being directed by the gate of Fry Gulch. Councilmember Parmet emphasized that this trail will be non-motorized. Town Manager John Crone will talk with the Ranger District and Forest Service to receive additional notifications about upcoming projects.

Councilmember Davis and Councilmember Kerr attended a recent Colorado Municipal League (CML) Policy Committee meeting. This committee takes input from all the municipalities on suggested policies for the CML Board to consider in its legislative priorities.

X. OTHER MATTERS

XI. SCHEDULED MEETING

With consensus from the Council, Mayor Riley directed staff to draft a Resolution cancelling the December 24, 2024, Town Council meeting pending timely consideration of the FY 2025 Budget.

XII. EXECUTIVE SESSION

XIII. ADJOURNMENT

Seeing no further business to conduct, Mayor Riley adjourned the meeting at 9:45 p.m.

TOWN OF KEYSTONE, COLORADO

STAFF REPORT

TO: Mayor & Town Councilmembers
THROUGH: John Crone, Town Manager
Jennifer Madsen, Town Attorney
FROM: Lindsay Hirsh, Community Development Director
Andrew Collins, Planner
DATE: November 12, 2024 – Council Meeting
SUBJECT: [Consent Agenda] TOK24-014: Class 2 Site Plan
Amendment 04 - Kindred Resort at Keystone

Executive Summary:

On July 9, 2024, the Town Council approved Ordinance 2024-O-08 Amending Ordinance No. 2024-O-05, Town of Keystone Land Use Code, and Declaring an Emergency. This ordinance was in response to the Council's desire to improve the process of reviewing Community Development department decisions related to Class 2 development reviews. A Class 2 site plan amendment has subsequently been approved for the Kindred Resort project located at 75 Hunk Dori Court and is now before Council for review.

[The application materials are available at this link.](#)

Recommendation:

The Community Development Director approved the Class 2 Site Plan Amendment application for the previously approved Site Plan for the Kindred Resort at Keystone, located at 75 Hunk Dori Court, Keystone. The Community Development Department has not identified any reason for Council's review (and call up) of that decision.

Background:

The subject Class 2 application TOK24-014 formalizes the following changes to the previously approved Kindred site plan approval, though Site Plan Amendment 04. The

requested modifications included: minor revisions for a fixed sculptural bench, revised under slab insulation, updated irrigation piping sleeve dimensions, reconfiguration of landscape near a water quality vault, and Mechanical, Engineering, and Plumbing (MEP) updates. The application was submitted in October 2024 and after the 15-day review and referral period, the Community Development Department approved the application, as it does not substantially modify the Kindred Site Plan and is consistent with the Town of Keystone Land Use Code and the Keystone Resort PUD.

On November 1, 2024, per the Amended Code, Staff sent a Notice of Action to Town Council, The Town Attorney, and the Town Manager. Per the revised Code language, the Community Development Department has scheduled the notice of action as an agenda item for the next Town Council meeting. A decision to appeal (or call up) that decision must be made within 21 days. Consistent with the Home Rule Charter, Town Council decides to appeal by an affirmative vote of the majority of the Town Council present at that meeting.

Financial Considerations:

There are no financial considerations applicable to the subject application.

Previous Council Actions:

None.

Alternatives:

If there is interest by Council to potentially hear/appeal the item, then Council will need to remove the item from the Consent Agenda and then vote on an appeal process of the Community Development Department's decision to approve the subject Class 2 Site Plan Amendment request. If a majority of Council members vote to appeal the decision of the Community Development Department's approval, Staff will initiate the Appeal process per Chapter 12 of the Code.

TOWN OF KEYSTONE, COLORADO

STAFF REPORT

TO: Mayor & Town Councilmembers
THROUGH: John Crone, Town Manager
Jennifer Madsen, Town Attorney
FROM: Lindsay Hirsh, Community Development Director
Andrew Collins, Planner
DATE: November 12, 2024 – Council Meeting
SUBJECT: [Consent Agenda] TOK24-015: Class 2 Sign Permit for Steep & Snowbird business located at 2311 US Hwy 6, Gateway Building

Executive Summary:

On July 9, 2024, the Town Council approved Ordinance 2024-O-08 Amending Ordinance No. 2024-O-05, Town of Keystone Land Use Code, and Declaring an Emergency. This ordinance was in response to the Council's desire to improve the process of reviewing Community Development department decisions related to Class 2 development reviews. A Class 2 sign permit has subsequently been approved for a business located at 2311 US Hwy 6, Units 113-116 of the Gateway Building, and is now before Council for review. [The application materials are available at this link.](#)

Recommendation:

The Community Development Department approved the Class 2 Sign Permit for Steep & Snowbird located at 2311 US Hwy 6, Units 113-116. The Community Development Director has not identified any reason for Council's review (and call up) of that decision.

Background:

The subject Class 2 Sign Permit application is to allow the relocation of the existing Steep wall sign, and the addition of a new Snowbird wall sign, that meets the requirements of

the Gateway Building Sign Program (the approved signage program for the building) and the Town of Keystone Land Use Code.

The application was submitted in October 2024 with the building's HOA's approval. The Community Development Department subsequently approved the sign permit application on October 25, 2024, as it meets the Keystone Land Use Code and the Gateway Building Sign Program requirements. The Town's Land Use Code, Chapter 9 Sign Regulations, requires sign permits to meet the requirements of any approved Sign Program, and the Gateway Sign Program is the previously approved sign program which the Steep & Snowbird signage must comply with in this instance.

On October 31, 2024, per the Amended Code, Staff sent a Notice of Action to Town Council, the Town Attorney, and the Town Manager. Per the revised Code language, the Community Development Department has scheduled the Notice of Action as an agenda item for the next Town Council meeting. A decision to appeal (or call up) that decision must be made within 21 days. Consistent with the Home Rule Charter, Town Council decides to appeal by an affirmative vote of the majority of the Town Council present at that meeting.

Financial Considerations:

There are no financial considerations applicable to the subject application.

Previous Council Actions:

None.

Alternatives:

If there is interest by Council to potentially hear/appeal the item, then Council will need to remove the item from the Consent Agenda and then vote on an appeal process of the Community Development Department's decision to approve the subject Class 2 Sign Permit request. If a majority of Council members vote to appeal the decision of the Community Development Department's approval, Staff will initiate the Appeal process per Chapter 12 of the Code.

TOWN OF KEYSTONE, COLORADO

STAFF REPORT

TO: Mayor & Town Councilmembers
THROUGH: John Crone, Town Manager
FROM: Jennifer Madsen, Town Attorney
DATE: November 12, 2024 – Council Meeting
SUBJECT: [SECOND READING] 2024-O-12, An Ordinance Of Town Council Of The Town Of Keystone, Colorado, Adopting By Reference The 2024 Edition Of The Model Traffic Code Of Colorado Promulgated By The Colorado Department Of Transportation With Amendments, And Setting Forth In Full The Penalty Provisions For Violations Thereof

Executive Summary:

Ordinance 2024-O-12 is an adoption of the 2024 edition of the Model Traffic Code with amendments to include state laws that were adopted in the 2024 legislative session and to include parking restrictions.

Recommendation:

Staff recommends that Council approve Ordinance 2024-O-12 on second reading.

Background:

With limited exceptions, local governments may enact and enforce traffic regulations on roads and streets within their jurisdiction. Balancing local government's ability to regulate local traffic laws, there is an expectation from drivers that the traffic laws will be uniform between local governments and throughout the state. The answer to the requirement for local governments to adopt traffic rules and the desire for a uniform set of traffic laws is the Model Traffic Code. CDOT publishes the Model Traffic Code for local governments to adopt an ordinance and the traffic code by reference in order to

provide for uniform rules of the road and vehicle requirements. The Model Traffic Code is consistent with state law traffic regulations.

Earlier in 2024, CDOT published the 2024 Model Traffic Code. The 2024 Model Traffic Code includes all state laws through the 2023 legislative session. Any traffic laws adopted by the General Assembly in 2024, such the cell phone use ban, would need to be added to the ordinance as an amendment to the traffic code.

[Draft Ordinance adopting the 2024 Edition of the Model Traffic Code:](#)

The draft ordinance adopting the 2024 edition of the Model Traffic Code is an adoption by reference. The draft ordinance includes amendments to the Model Traffic Code.

- Amendment (2) adds the new state law amendments related to the automated vehicle identification systems. These new requirements allow for the use of AVIS on state highways with coordination between CDOT and the local government.
- Amendment (3) to section 225 is the addition of a regulation prohibiting engine brakes.
- Amendment (4) adds the new state law related to use of mobile electronic devices. This state law is effective on January 1, 2025, and should be added to the adoption of the model traffic code.
- Amendment (5) are the parking restrictions. These parking restrictions are mirror after the Town of Dillon's parking regulations with the changes to the on-street parking discussed at the July 23 work session. The regulations include parking violations on private property; street parking; public parking lots; and parking on vacant lots. Related to the revisions from the July 23 work session, parking on public streets is prohibited. There is an exception to allow for parking on streets for residents (or guests of residents) of Loveland Pass Village.
- Amendment (6) deletes reference to criminal violations for foreign matter on highway prohibited.
- Amendment (7) adds the new state law regarding motorcycle lane filtering. This section 1503 authorizes motorcycles to overtake or pass another motor vehicle in

the same lane if the traffic is stopped, the road has lanes wide enough to pass safely, and the motorcycle is moving at a speed that is less than 15 mph.

- Amendment (8) aligns the model traffic code with municipal enforcement. Section 1701 sets forth fine amounts and classifies traffic infractions as class A and class B. It is recommended that the Town Council sets its own fine amounts or gives the Municipal Court Judge the authority to set fines. This amendment also designates most offenses as civil offenses rather than criminal offenses.
- Amendment (9) deletes Section 1702 which is the schedule of fines.
- Amendment (10) replaces the process for arrests in Section 1705 with a process that will be consistent with a Town law enforcement process.
- Amendment (11) deletes subsection (3) of Section 1709 which provides that a penalty assessment must be issued 30 days before the court appearance date.
- Amendment (12) deletes Part 18 which is abandoned vehicles. These regulations are covered by the parking regulations and the Town's junk/abandoned vehicle nuisance ordinance.

The Model Traffic Code does include the Automated Vehicle Identification Systems (AVIS) regulations; however, Town Council would need to designate the street an automated vehicle identification corridor to be able to issue a notice of violation or civil penalty assessment. The Town would need to work with CDOT to implement AVIS on highway 6. [Here is a link to the 2024 edition of the Model Traffic Code.](#)

Alternatives:

Town Council may provide alternative direction on the adoption of the model traffic code.

Financial Considerations:

There are no financial considerations applicable to this ordinance.

Previous Council Actions:

The Town Attorney discussed this ordinance with Town Council at the work sessions on July 9, and July 23. The ordinance was approved on first reading at the October 8 meeting.

Next Steps:

If Council approves this Ordinance, the effective date of the ordinance is January 1, 2025, to allow time for implementation.

Suggested Motions:

Approval:

I move to APPROVE Ordinance 2024-O-12, An Ordinance Of Town Council Of The Town Of Keystone, Colorado, Adopting By Reference the 2024 Edition of the Model Traffic Code of Colorado Promulgated by the Colorado Department of Transportation with Amendments, and Setting Forth in Full the Penalty Provisions For Violations Thereof

Denial:

I move to DENY Ordinance 2024-O-12, An Ordinance Of Town Council Of The Town Of Keystone, Colorado, Adopting By Reference the 2024 Edition of the Model Traffic Code of Colorado Promulgated by the Colorado Department of Transportation with Amendments, and Setting Forth in Full the Penalty Provisions For Violations Thereof

Attachment:

- Ordinance 2024-O-12, An Ordinance Of Town Council Of The Town Of Keystone, Colorado, Adopting By Reference the 2024 Edition of the Model Traffic Code of Colorado Promulgated by the Colorado Department of Transportation with Amendments, and Setting Forth in Full the Penalty Provisions For Violations Thereof

**TOWN OF KEYSTONE
ORDINANCE NO. 2024-O-12**

**AN ORDINANCE OF TOWN COUNCIL OF THE TOWN OF KEYSTONE,
COLORADO, ADOPTING BY REFERENCE THE 2024 EDITION OF THE MODEL
TRAFFIC CODE OF COLORADO PROMULGATED BY THE COLORADO
DEPARTMENT OF TRANSPORTATION WITH AMENDMENTS, AND SETTING
FORTH IN FULL THE PENALTY PROVISIONS FOR VIOLATIONS THEREOF**

WHEREAS, Sections 42-4-110 and 42-4-111, C.R.S., authorize the Town of Keystone (“Town”) to regulate public streets, roads, alleys and other thoroughfares to protect the public health, safety, and welfare, and specifically to adopt by reference a model traffic code which embodies the rules of the road; and

WHEREAS, to protect and preserve the health, safety and welfare of its residents, the Town desires to adopt the 2024 edition of the Model Traffic Code for Colorado as promulgated by the Colorado Department of Transportation (the “2024 Model Traffic Code”) by reference with additions, deletions and modifications as specified below; and

WHEREAS, after due and proper notice in accordance with C.R.S. § 31-16-203, the Town Council conducted a public hearing on the adoption of this ordinance and the 2024 Model Traffic Code, on the date, time and place noticed and at which all interested parties were afforded an opportunity to be heard; and

WHEREAS, in accordance with C.R.S. § 31-16-206, at least three (3) copies of the 2024 Model Traffic Code are on file in the office of the Town Clerk and have been made available for public inspection at least fifteen (15) days prior to the public hearing for adoption of this ordinance; and

WHEREAS, the penalty provisions applicable to violations of the Model Traffic Code adopted hereby are set forth in full herein; and

WHEREAS, the Town Council finds that the adoption of this Ordinance is a proper exercise of the Town’s police power and that it is in the best interest of the public health, safety, and welfare of the citizens of the Town to regulate traffic and vehicles using the public rights-of-way and to prescribe the penalties for violations thereof.

**THE TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO,
ORDAINS:**

Section 1. The foregoing recitals are hereby affirmed and incorporated herein by this reference as findings of the Town Council.

Section 2. Adoption by Reference of the 2024 Model Traffic Code.

Pursuant to Parts 1 and 2 of Article 16 of Title 31, C.R.S., there is hereby adopted by reference the 2024 edition of the Model Traffic Code for Colorado, promulgated and published by the Colorado Department of Transportation (hereinafter referred to as the "Model Traffic Code"). The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the Town. The purpose of this Article and the code adopted herein is to provide a system of traffic regulations consistent with state law and conforming to similar regulations throughout the state and the nation. Three (3) copies of the Model Traffic Code adopted herein are now filed in the office of the Town Clerk and may be inspected during regular business hours.

Section 3. Amendments to the 2024 Model Traffic Code.

The 2024 edition of the Model Traffic Code is adopted as if set out at length save and except the following articles and/or sections that shall be subject to the following amendments, deletions and additions:

- (1) All references to Class 1 and 2 and Class A and B in the Model Traffic Code are hereby deleted.
- (2) Amendment of Section 110.5. Section 110.5 of the Model Traffic Code, concerning automated vehicle identification systems is hereby repealed and replaced with a new Section 110.5 that is consistent with state law by the Colorado General Assembly in SB24-195 as follows:

110.5. Automated vehicle identification system.

- (1) The general assembly hereby finds and declares that the enforcement of traffic laws through the use of automated vehicle identification systems under this section is a matter of statewide concern and is an area in which uniform state standards are necessary.
 - (1.1) As used in this section, unless the context otherwise requires:
 - (a) (l) "Automated vehicle identification system" means a system whereby:
 - (A) A machine is used to automatically detect a violation of a traffic regulation and simultaneously record a photograph of the vehicle and the license plate of the vehicle; and

- (B) A notice of violation or civil penalty assessment notice may be issued to the registered owner of the motor vehicle.
- (II) “Automated vehicle identification system” includes a system used to detect a violation of part 11 of this article 4 or a local speed ordinance, a system used to detect violations of traffic restrictions imposed by traffic signals or traffic signs, and a system used to detect violations of bus lane or bicycle lane restrictions.
- (b) “State”, notwithstanding section 42-1-102(95), means the state of Colorado acting through the Colorado state patrol in the department of public safety or the department of transportation.
- (c) “State highway” means any highway that is owned by or maintained by the state. “State highway” does not include a public highway operated by a public highway authority in accordance with the “Public Highway Authority Law”, part 5 of article 4 of title 43.
- (1.4) Nothing in this section applies to the use of automated vehicle identification systems for the purpose of collecting tolls, fees, or civil penalties in accordance with part 5 of article 4 of title 43 and section 43-4-808.
- (1.5) Except for the authorization contained in subsection (1.7) of this section, nothing in this section applies to a violation detected by an automated vehicle identification system for driving twenty-five miles per hour or more in excess of the reasonable and prudent speed or twenty-five miles per hour or more in excess of the maximum speed limit of seventy-five miles per hour detected by the use of an automated vehicle identification system.
- (1.6) Reserved.
- (1.7) Reserved.
- (2) A county, city and county, or municipality may adopt an ordinance authorizing the use of an automated vehicle identification system to detect violations of traffic regulations adopted by the county, city and county, or municipality, or the state, a county, a city and county, or a municipality may utilize an automated vehicle identification system to detect traffic violations under state law, subject to the following conditions and

limitations and, as applicable, the requirements for state highways set forth in and any rules adopted by the department of transportation pursuant to subsection (2.5) of this section:

- (a) (I) Reserved.
- (II) If the state, a county, a city and county, or a municipality detects any alleged violation of a county or municipal traffic regulation or a traffic violation under state law through the use of an automated vehicle identification system, then the state, county, city and county, or municipality shall issue, or cause its vendor to issue, to the registered owner of the motor vehicle involved in the alleged violation, by first-class mail, personal service, or by any mail delivery service offered by an entity other than the United States postal service that is equivalent to or superior to first-class mail with respect to delivery speed, reliability, and price, a notice of violation:
 - (A) Within thirty days after the alleged violation occurred if the motor vehicle involved in the alleged violation is registered in the state; or
 - (B) Within sixty days after the alleged violation occurred if the motor vehicle involved in the alleged violation is registered outside of the state.
- (III) The notice of violation must contain:
 - (A) The name and address of the registered owner of the motor vehicle involved in the alleged violation;
 - (B) The license plate number of the motor vehicle involved in the alleged violation;
 - (C) The date, time, and location of the alleged violation;
 - (D) The amount of the civil penalty prescribed for the alleged violation;
 - (E) The deadline for payment of the prescribed civil penalty and for disputing the alleged violation; and

- (F) Information on how the registered owner may either dispute the alleged violation in a hearing or pay the prescribed civil penalty.
- (IV) If the state, a county, a city and county, or a municipality does not receive the prescribed civil penalty or a written notice requesting a hearing to dispute the alleged violation by the deadline stated on the notice of violation, which deadline must not be less than forty-five days after the issuance date on the notice of violation, the state, county, city and county, or municipality shall issue, or cause its vendor to issue, by first-class mail, personal service, or by any mail delivery service offered by an entity other than the United States postal service that is equivalent to or superior to first-class mail with respect to delivery speed, reliability, and price, a civil penalty assessment notice for the alleged violation to the registered owner of the motor vehicle involved in the alleged violation no later than thirty days after the deadline on the notice of violation.
- (V) The civil penalty assessment notice must contain:
 - (A) The name and address of the registered owner of the motor vehicle involved in the alleged violation;
 - (B) The license plate of the motor vehicle involved in the alleged violation;
 - (C) The date, time, and location of the alleged violation;
 - (D) The amount of the civil penalty prescribed for the alleged violation;
 - (E) The deadline for payment of the prescribed civil penalty;
 - (F) Information on how to pay the prescribed civil penalty.
- (VI) If the registered owner of the motor vehicle fails to request a hearing to dispute the alleged violation by the deadline stated in the notice of violation, the registered owner waives any right to contest the violation or the amount of the prescribed civil penalty.

- (VII) If the registered owner of the motor vehicle fails to pay in full the prescribed civil penalty by the deadline stated in the civil penalty assessment notice, a final order of liability shall be entered against the registered owner of the vehicle.
 - (VIII) Final orders may be appealed as to matters of law and fact to the county court in the county where the alleged violation or the municipal court in the municipality where the alleged violation occurred. The registered owner of the motor vehicle may assert in an appeal that a notice of violation served by first-class mail or other mail delivery service was not actually delivered. The appeal shall be a de novo hearing.
 - (IX) The state, a county, a city and county, or a municipality shall not initiate or pursue a collection action against a registered owner of a motor vehicle for a debt resulting from an unpaid penalty assessed pursuant to this section unless the registered owner is personally served the notice of violation or the final order of liability.
 - (X) If the registered owner of a motor vehicle involved in a traffic violation under state law or under traffic regulations adopted by a county, city and county, or municipality is engaged in the business of leasing or renting motor vehicles, the registered owner remains liable for payment of the civil penalty even if the registered owner was not driving the motor vehicle but may obtain payment from the lessor or renter of the motor vehicle and forward the payment to the state or the county, city and county, or municipality imposing the civil penalty.
- (b) Notwithstanding any other provision of the statutes to the contrary, the state, a county, a city and county, or a municipality shall not report to the department any conviction or entry of judgment against a defendant for violation of a county or municipal traffic regulation or a traffic violation under state law if the violation was detected through the use of an automated vehicle identification system.
- (c) Reserved.

- (d) (I) The state, a county, a city and county, or a municipality shall not use an automated vehicle identification system to detect a violation of part 11 of this article 4 or a local speed ordinance unless there is posted an appropriate temporary or permanent sign in a conspicuous place not fewer than three hundred feet before the area in which the automated vehicle identification system is to be used notifying the public that an automated vehicle identification system is in use immediately ahead. The requirement of this subsection (2)(d)(I) shall not be deemed satisfied by the posting of a permanent sign or signs at the borders of a county, city and county, or municipality, nor by the posting of a permanent sign in an area in which an automated vehicle identification system is to be used, but this subsection (2)(d)(I) shall not be deemed a prohibition against the posting of such permanent signs.
- (II) Except as provided in subsection (2)(d)(I) of this section, an automated vehicle identification system designed to detect disobedience to a traffic control signal or another violation of this article 4 or a local traffic ordinance shall not be used unless the state, county, city and county, or municipality using such system conspicuously posts a sign notifying the public that an automated vehicle identification system is in use immediately ahead. The sign shall:
 - (A) Be placed in a conspicuous location not fewer than two hundred feet nor more than five hundred feet before the automated vehicle identification system; and
 - (B) Use lettering that is at least four inches high for upper case letters and two and nine-tenths inches high for lower case letters.
- (e) (I) If the state, county, city and county, or municipality implements a new automated vehicle identification system after July 1, 2023, that is not a replacement of an automated vehicle identification system:
 - (A) The agency responsible for the automated vehicle identification system shall publicly announce the

implementation of the system through its website for at least thirty days prior to the use of the system; and

- (B) For the first thirty days after the system is installed or deployed, only warnings may be issued for violations of a county or municipal traffic regulation or traffic violation under state law detected by the system.
- (II) A state, county, city and county, or municipality may conduct an extended public information campaign or warning period for systems installed or deployed either before or after July 1, 2023.
- (f) Reserved.
- (g) (I) The state, a county, a city and county, or a municipality shall not issue a notice of violation or civil penalty assessment notice for a violation detected using an automated vehicle identification system unless the violation occurred within a school zone, as defined in section 42-4-615; within a residential neighborhood; within a maintenance, construction, or repair zone designated pursuant to section 42-4-614; along a street that borders a municipal park; or along a street or portion of a street that a county, city and county, or municipality, by ordinance or by a resolution of its governing body, designates as an automated vehicle identification corridor, on which designated corridor the county, city and county, or municipality may locate an automated vehicle identification system to detect violations of a county, city and county, or municipal traffic regulation or a traffic violation under state law.
 - (I.1) Reserved.
 - (I.2) Reserved.
 - (I.3) Before a county, a city and county, or a municipality designates an automated vehicle identification corridor on a state highway, the county, city and county, or municipality shall notify the department of transportation. If a county, city and county, or municipality designates an automated vehicle identification corridor on a state highway by ordinance or resolution before January 1, 2025, it may proceed without

having provided this notification to the department of transportation.

- (1.4) After a county, city and county, or a municipality designates an automated vehicle identification corridor on a state highway, the county, city and county, or municipality shall coordinate with the department of transportation. Coordination must include demonstrating that the requirements set forth in subsection (2)(g)(1.7)(B) of this section have been met and, if needed, applying for a special use permit to install any devices or signage on department of transportation right-of-way if the segment of highway in question is maintained by the state. A county, city and county, or municipality shall alert the department of transportation when the automated vehicle identification corridor begins operations or permanently ceases operations on a state highway. The department of transportation shall notify the Colorado state patrol when a county, city and county, or municipality coordinates with the department of transportation to establish an automated vehicle identification corridor on a state highway.
- (1.5) Before a county, city and county, or municipality begins the operation of an automated vehicle identification system in an automated vehicle identification corridor on a county road, the county, city and county, or municipality shall notify the Colorado state patrol.
- (1.6) Before the state designates an automated vehicle identification corridor on a state highway located within the boundaries of a county, a city and county, or a municipality, and before the state begins operation of an automated vehicle identification corridor on a state highway, the state shall coordinate with the respective county, city and county, or municipality.
- (1.7) Before the state, a county, city and county, or municipality begins operation of an automated vehicle identification system in an automated vehicle identification corridor, the state, county, city and county, or municipality must:

- (A) Post a permanent sign in a conspicuous place not fewer than three hundred feet before the beginning of the corridor; and
 - (B) Post a permanent sign not fewer than three hundred feet before each static camera within the corridor thereafter or a temporary sign not fewer than three hundred feet before any mobile camera; except that, for an automated vehicle identification corridor on which an automated vehicle identification system is used on transit vehicles for the purpose of detecting unauthorized use of a transit-only lane, post permanent signs at one-half mile or more frequent intervals; and
 - (C) Illustrate, through data collected within the past five years, incidents of crashes, speeding, reckless driving, or community complaints on a street designated as an automated vehicle identification corridor unless the automated vehicle identification system will be used exclusively to detect unauthorized usage of one or more transit-only lanes.
- (II) As used in this subsection (2)(g), unless the context otherwise requires, “residential neighborhood” means any block on which a majority of the improvements along both sides of the street are residential dwellings and the speed limit is thirty-five miles per hour or less.
 - (III) This subsection (2)(g) does not apply to an automated vehicle identification system designed to detect disobedience to a traffic control signal.
 - (IV) The state, a county, a city and county, or a municipality implementing an automated vehicle identification corridor pursuant to subsection (2)(g)(I) of this section shall publish a report on its website disclosing the number of citations and revenue generated by the automated vehicle identification corridor.
- (V) (A) Notwithstanding the provisions of subsection (2)(g)(I) of this section, the state may locate an automated vehicle identification system on a highway that is a

part of the federal interstate highway system and may issue a notice of violation or a civil penalty assessment notice for a traffic violation under state law detected using the automated vehicle identification system.

- (B) A county, a city and county, or a municipality shall not locate an automated vehicle identification system or create an automated vehicle identification corridor on any highway that is a part of the federal interstate highway system.
- (h) The state, a county, a city and county, or a municipality shall not require a registered owner of a vehicle to disclose the identity of a driver of the vehicle who is detected through the use of an automated vehicle identification system. However, the registered owner may be required to submit evidence that the owner was not the driver at the time of the alleged violation.
- (2.5) (a) The state may use an automated vehicle identification system on any portion of a state highway. The department of transportation may promulgate rules to implement the provisions of this section relating to the use of automated vehicle identification systems by the department of transportation on state highways and prioritization for the use of automated vehicle identification systems by other entities on state highways, including but not limited to rules that:
 - (I) Specify prioritization criteria that the department of transportation will use to determine which entity is authorized to use an automated vehicle identification system if multiple entities seek authorization to use an automated vehicle identification system on the same portion of a state highway. The criteria must specify that the department of transportation must give preference to an entity that has the primary responsibility for regulation and enforcement of traffic restrictions on the portion of a state highway on which an automated vehicle identification system is to be used.
 - (II) Specify, consistent with the requirements of subsection (2)(a) of this section, the process that the state will use to notify a county, city and county, or municipality that the state will be using an automated vehicle identification system

within its jurisdiction and the administrative and enforcement process that the department of transportation will use to administer, hear, and resolve a traffic violation detected through the use by the department of transportation of an automated vehicle identification system;

- (III) Establish, subject to the caps set forth in subsections (4)(b) and (4.5) of this section and any other provision of law, the amount of civil penalties imposed for traffic violations detected through the use by the department of transportation of an automated vehicle identification system;
- (IV) Establish an administrative hearing process that complies with subsections (2)(a)(IV) through (2)(a)(VIII) of this section, including the ability to retain and contract with impartial hearing officers and the ability for impartial hearing officers to issue final orders required by subsection (2)(a)(VII) of this section; and
- (V) Provide, consistent with this section, any additional requirements, guidance, or clarification that the department of transportation deems necessary or appropriate to implement this section.

(b) It is the intent of the general assembly that the department of transportation consult with the Colorado state patrol when promulgating rules relating to the use of automated vehicle identification systems and before authorizing the use of an automated vehicle identification system by the state or a county, a city and county, or a municipality on any portion of a state highway. It is also the intent of the general assembly that the department of transportation consult with counties, city and counties, and municipalities when promulgating rules relating to the use of automated vehicle identification systems.

(c) The provisions of this subsection (2.5) do not apply to an automated vehicle identification system on a state highway that a county, city and county, or municipality has implemented or designated by ordinance or resolution before January 1, 2025, or before the department of transportation adopts rules pursuant to subsection (2.5)(a) of this section, whichever occurs later. This subsection (2.5) does not require a county, city and county, or municipality to remove or stop the implementation of an automated

vehicle identification system that was placed on any portion of a state highway or designated by ordinance or resolution before January 1, 2025, or before the department of transportation adopts rules pursuant to subsection (2.5)(a) of this section, whichever occurs later.

- (3) The department has no authority to assess any points against a license under section 42-2-127, C.R.S. upon entry of a conviction or judgment for a violation of a county or municipal traffic regulation or a traffic violation under state law if the violation was detected through the use of an automated vehicle identification system. The department shall not keep any record of such violation in the official records maintained by the department under section 42-2-121, C.R.S.
- (4)
 - (a) If the state, a county, a city and county, or a municipality detects a speeding violation of less than ten miles per hour over the reasonable and prudent speed under a county or municipal traffic regulation or under state law through the use of an automated vehicle identification system and the violation is the first violation by the registered owner that the state, county, city and county, or municipality has detected using an automated vehicle identification system, then the state, county, city and county, or municipality may mail the registered owner a warning regarding the violation, but the state, county, city and county, or municipality shall not impose any penalty or surcharge for such first violation.
 - (b)
 - (I) If the state, a county, a city and county, or a municipality detects a second or subsequent speeding violation under a county or municipal traffic regulation or under state law by the registered owner, or a first such violation by the registered owner, if the provisions of subsection (4)(a) of this section do not apply, through the use of an automated vehicle identification system, then, except as may be permitted in subsection (4)(b)(II) of this section, the maximum penalty that the state, county, city and county, or municipality may impose for such violation, including any surcharge, is forty dollars.
 - (II) If any violation described in subsection (4)(b)(I) of this section occurs within a school zone, as defined in section 42-4-615, C.R.S., the maximum penalty that may be imposed shall be doubled.

- (III) Subsection (4)(b)(I) of this section does not apply within a maintenance, construction, or repair zone designated pursuant to section 42-4-614, C.R.S., or a school zone, as defined in section 42-4-615(2), C.R.S.
- (4.5) (a) If the state, a county, a city and county, or a municipality detects a violation of a county, city and county, or municipal traffic regulation or traffic violation under state law for disobedience to a traffic control signal through the use of an automated vehicle identification system, the maximum civil penalty that the state, a county, a city and county, or a municipality may impose for such violation, including any surcharge, is seventy-five dollars.
- (b) Subsection (4.5)(a) of this section does not apply within a maintenance, construction, or repair zone designated pursuant to section 42-4-614, C.R.S., or a school zone, as defined in section 42-4-615(2), C.R.S.
- (4.7) If a registered owner fails to pay a penalty imposed for a violation of a county or municipal traffic regulation or a traffic violation under state law detected using an automated vehicle identification system, the state, a county, a city and county, or a municipality shall not attempt to enforce such a penalty by immobilizing the registered owner's vehicle.
- (5) If the state, a county, a city and county, or a municipality has established an automated vehicle identification system for the enforcement of county or municipal traffic regulations or state traffic laws, then no portion of any fine collected through the use of such system may be paid to the manufacturer or vendor of the automated vehicle identification system equipment. The compensation paid by the state, county, city and county, or municipality for such equipment shall be based upon the value of such equipment and the value of any services provided to the state, county, city and county, or municipality and may not be based upon the number of traffic citations issued or the revenue generated by such equipment or services.
- (6) Reserved.
- (7) The state, county, city and county, or municipality and any vendor operating an automated vehicle identification system shall, unless otherwise provided in this section:

- (a) Program the automated vehicle identification system to retain data only when a violation of a county or municipal traffic regulation or traffic violation under state law occurs;
 - (b) Treat all photographs and video collected by the automated motor vehicle identification system as confidential and exempt from disclosure and inspection pursuant to the “Colorado Open Records Act”, part 2 of article 72 of title 24;
 - (c) Not use, disclose, sell, or permit access to photographs, video, or personal identifiable data collected by the automated motor vehicle identification system except to the extent necessary to operate the program, including for purposes of processing violations, for other law enforcement purposes, for transferring data to a new vendor or operating system, or, pursuant to a court order, for use in unrelated legal proceedings; and
 - (d) Destroy any photographs and video of a violation collected by the automated vehicle identification system within three years after the final disposition of the violation unless the photographs or video are maintained in a separate system for other purposes allowed by law.
- (8) Notwithstanding any other provision of law, the aggregate amount of revenue, exclusive of court and operations costs, collected by the state as civil penalties for violations detected by automated vehicle identification systems must be credited to the state highway fund and used by the department only to fund road safety projects, as defined in section 43-4-803(21), C.R.S., of the type described in section 43-4-803(21)(b), C.R.S. The department shall prioritize funding to those road safety projects with the highest potential to reduce vulnerable road user injuries and fatalities while taking into account the planning capacity of each region.
- (3) Amendment of Section 225. Section 225 of the Model Traffic Code, concerning mufflers and prevention of noise, is hereby amended by the addition of a new Subsection (5) to read in its entirety as follows:
- (5) It shall be unlawful for the operator of a vehicle driving on any public or private street within the Town to use or employ the use of an auxiliary engine braking system.
 - (a) For purposes of this Section, an auxiliary engine break means any device mounted on or adjacent to the engine of a commercial motor

vehicle which, when employed, reduces engine speed and causes the vehicle to slow without use of the vehicle's braking system.

- (b) This Subsection (5) shall not apply to authorized emergency vehicles employing an auxiliary engine break in the course of performing emergency response functions.
- (c) The Town will erect, or cause to be erected, street signage that identifies this Section's requirements.
- (d) The first violation of this Subsection (5) by any individual operator shall be punishable by a fine of up to five hundred dollars (\$500.00). A second violation by any operator shall be punishable by a fine of up to seven hundred and fifty dollars (\$750.00). A third or greater violation by any operator shall be punishable by a fine of up to the maximum fine amount authorized by Town Council.

- (4) Repeal and Replace Section 239. Section 239 of the Model Traffic Code is hereby repealed and replaced with the following language:

239. Use of a mobile electronic device.

- (1) As used in this section, unless the context otherwise requires:
 - (a) "Emergency" means a circumstance in which an individual:
 - (I) has reason to fear for the individual's life or safety or believes that a criminal act may be perpetrated against the individual or another individual, requiring the use of a mobile electronic device when the individual is driving a motor vehicle; or
 - (II) reports a fire, a traffic accident in which one or more injuries are apparent, a serious road hazard, a medical or hazardous materials emergency, or an individual who is driving in a reckless, careless, or unsafe manner.
 - (b) "First responder" means:
 - (I) a peace officer, as described in section 16-2.5-101, C.R.S.;
 - (II) a firefighter, as defined in section 29-5-203(10), C.R.S.;
 - (III) a volunteer firefighter, as defined in section 31-30-1102 (9)(a), C.R.S.;
 - (IV) an emergency medical service provider, as defined in section 25-3.5-103(8), C.R.S.; or

- (V) any other individual who responds in a professional capacity to a public safety emergency.
- (c) "Hands-free accessory" means an accessory with a feature or function that enables an individual to use a mobile electronic device without using either hand, except to activate, deactivate, or initiate the feature or function with a single touch or single swipe.
- (d) (I) "Mobile electronic device" means a handheld or portable electronic device capable of providing voice communication between two or more persons, amusement, or the wireless transfer of data.
(II) "Mobile electronic device" does not include:
 - (A) a radio, citizens band radio, or citizens band radio hybrid;
 - (B) a commercial two-way radio communication device or its functional equivalent;
 - (C) a subscription-based emergency communication device;
 - (D) a prescribed medical device;
 - (E) an amateur or ham radio device; or
 - (F) systems that are designed for and installed within the vehicle's electronics, such as an in-vehicle security, navigation, communications, or remote diagnostics system.
- (e) "Operating a motor vehicle" means driving a motor vehicle on a public highway. "operating a motor vehicle" does not include maintaining the instruments of control of a motor vehicle while the motor vehicle is at rest in a shoulder lane or lawfully parked.
- (f) "Use" or "using" means:
 - (I) physically holding a mobile electronic device in the driver's hand or pinning a mobile electronic device to a driver's ear to conduct voice-based communication; except that an individual may use a speaker or other listening device that is built into protective headgear or a device or portion of a device that only covers all or a portion of one ear and that is connected to a wireless, handheld telephone as provided in section 42-4-1411, C.R.S.;

- (II) watching a video or movie on a mobile electronic device, other than watching data related to the navigation of the motor vehicle; or
 - (III) writing, sending, or reading text-based communication, including a text message, instant message, e-mail, or internet data, on a mobile electronic device; except that text-based communication does not include:
 - (A) a voice-based communication that is automatically converted by the mobile electronic device to be sent as a message in written form; or
 - (B) communication concerning the navigation of a motor vehicle.
- (2) Except as specified in subsection (3) of this section, an individual shall not use a mobile electronic device while operating a motor vehicle.
- (3) It is not a violation of subsection (2) of this section to use a mobile electronic device:
 - (a) to contact a public safety entity;
 - (b) during an emergency;
 - (c) when an employee or contractor of a utility is acting within the scope of the employee's or contractor's duties when responding to a utility emergency;
 - (d) when an employee or contractor of a city or county is acting within the scope of the employee's or contractor's duties as a code enforcement officer or animal protection officer; or
 - (e) during the performance of a first responder's official duties.
- (4)
 - (a) Reserved.
 - (b)
 - (I) An individual charged with violating subsection (2) of this section shall not be convicted if the individual:
 - (A) produces a hands-free accessory or proof of purchase of a hands-free accessory; and
 - (B) affirms under penalty of perjury that the individual has not previously had a charge dismissed under this subsection (4)(b).

- (II) The court clerk may dismiss the charge if the clerk verifies that the individual has complied with both subsections (4)(b)(I)(A) and (4)(b)(I)(B) of this Section.
- (c) Reserved.
- (d) Reserved.
- (5) This Section does not apply to an individual with a commercial driver's license who is operating a commercial vehicle.
- (6) An individual operating a motor vehicle shall not be cited for a violation of subsection (2) of this section unless a law enforcement officer saw the individual use a mobile electronic device in a manner that caused the individual to drive in a careless and imprudent manner, without due regard for the width, grade, curves, corners, traffic, and use of the streets and highways and all other attendant circumstances, as prohibited by section 1402.
- (7) This section does not authorize the seizure and forfeiture of a mobile electronic device, unless otherwise provided by law.
- (5) Addition of Section 1214. The Model Traffic Code is further amended by the addition of a new Section 1214, entitled "Parking restrictions." to read as follows in its entirety:
 - 1214. Parking restrictions.**
 - (1) Definitions. As used in this Section:
 - (a) *Owner*, when applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.
 - (b) *Parking* means stopping, standing, parking, locating or leaving unattended in any other manner any vehicle or trailer under any circumstances.
 - (c) *Public parking area* means any parcel of property located in the Town, owned by the Town and designated by the Town for use by the public for the temporary storage of automobiles.
 - (d) *Resident* means a person who maintains their principal place of residence within the Town, either by owning, renting, or occupying a dwelling on a permanent or semi-permanent basis.
 - (e) *Street* or *streets* means any highway, alley, street, right-of-way, avenue, lane, court, place, square cover curb, bridge, viaduct, underpass, overpass, tunnel, causeway or other public way in the

Town which has or may hereinafter be designated as open to public use, or such other properties so designated in any law of this State, including the entire width of every dedicated public right-of-way owned or controlled by the Town, it being determined that the entire right-of-way and any such public way and any part thereof is open to the use of the public as a matter of right for the purpose of motor vehicle travel. Motor vehicle travel does not include parking as defined in this Section.

- (f) *Trailer* includes boat trailers, travel trailers, pickup campers (whether or not attached to a vehicle), coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers and the like.
 - (g) *Vehicle* means any device which is capable of moving itself, or being moved, from place to place upon wheels or endless tracks, with or without a motor. Such term includes bicycles and snowmobiles, but does not include wheelchairs.
 - (h) *Vessel* means every description of watercraft used or capable of being used as a means of transportation of persons and property on the water, other than single-chambered air-inflated devices or seaplanes.
- (2) Parking on private property.
- (a) It is unlawful for a person to park a vehicle on any private property which has been designated and marked as provided in this Section.
 - (b) The owner or lessee of any private property within the Town may file a request in writing with Town law enforcement that certain parking spaces be designated and marked as "HANDICAP PARKING" only. Upon approval of such request, at the determination of the Town law enforcement, the owner or lessee may install, at the owner's or lessee's expense and pursuant to Town direction and specification, "HANDICAP PARKING" signs on the property, and the Town may ticket and/or tow vehicles parked thereon in the same manner as applicable to handicap parking only areas on Town streets and property. Such marked handicap parking spaces shall comply with the requirements of subsection (6).
 - (c) The owner or lessee of any private property within the Town may file a request in writing with Town law enforcement that the designated fire lanes on that property be designated and marked as "NO PARKING." Upon approval of such request, at the

determination of Town law enforcement, the owner or lessee may install, at the owner's or lessee's expense and pursuant to Town direction and specification, "NO PARKING" signs on the designated fire lanes on that property, and the Town may ticket and/or tow vehicles parked thereon in the same manner as applicable to no-parking areas on Town streets and property.

- (d) Such property shall be and remain private property subject to enforcement for compliance with all Town ordinances, regulations and standards for private parking facilities.

(3) Street Parking.

- (a) It is unlawful for any person to occupy any trailer when located or parked on any street in the Town, for the purpose of using such trailer as a permanent or temporary residence on an overnight basis.
- (b) It is unlawful for any person to park or locate any vehicle or trailer on any street in the Town.
- (c) It is not a violation of this subsection (3) for a resident, or a guest of a resident, to park a vehicle on the street in the area designated as "Loveland Pass Village," which includes Razor Drive, Razor Court, Miesel Drive, and West Hanen Road. For purposes of this subsection (3)(c), the resident must be a resident of Loveland Pass Village.

(4) Public Parking Lots.

- (a) It is unlawful for any person to occupy any vehicle or trailer as a temporary residence on an overnight basis in any public parking area or public parking lot in the Town, except where specifically authorized by the Town Council, or where authorized by a special parking permit issued by Town law enforcement.
- (b) It is unlawful for any person to occupy any vehicle or trailer as a permanent residence on an overnight basis in any public parking area or public parking lot in the Town.
- (c) No vehicle or trailer may be parked or located on any public parking area or public parking lot in the Town between the hours of 2:00 a.m. and 6:00 a.m., except:
 - (1) Parking is allowed in the marked and designated parking lots allowing for overnight parking; and

- (2) Parking is allowed pursuant to a special parking permit issued by Town law enforcement.
- (d) It is unlawful for any person to park or locate trailer not attached to a vehicle in any public parking area or lot.
- (5) Parking on vacant lots prohibited.
 - (a) It is unlawful for the owner of any vacant lot or parcel located in the Town to permit the parking or storage of trailers, whether for a fee or otherwise, at any time, upon such lot or parcel.
 - (b) This Section shall not be construed to prohibit the parking of construction trailers on vacant lots during the period of construction of a structure on such lot.
- (6) Marking of handicap parking spaces.

Handicap parking spaces shall be adequately and clearly marked, which shall require, at a minimum, the following:

- (a) An official upright sign, which may be stationary or portable, which sign is clearly visible to a person driving a motor vehicle considering parking in the space;
 - (b) A marking on the surface of the parking space designating the location, perimeters and restricted use of the space either by words, wheelchair symbol or color markings; and
 - (c) Removal of snow, ice and debris that interferes with the identification of the space as a handicap parking space.
- (7) Authority of Town law enforcement to prohibit parking.

The Town law enforcement is granted the authority to determine and designate certain streets and rights-of-way, or portions thereof, where it shall be illegal to park a vehicle of any type, and to further designate the hours and times such parking shall be prohibited. Such determination and designation shall be evidenced by a sign setting forth the parking prohibition, posted in accordance with this Code and the Model Traffic Code adopted by the Town. Once such sign is posted, it is unlawful for any person to park a vehicle of any type on the designated street or right-of-way, or portions thereof, during the designated hours and times.

- (8) Towing and storage; charges.

Any vehicle or trailer violating the prohibitions set forth in this Article may be towed and stored at the option of the Town, provided such towing and storage from private property shall comply with applicable provisions of state law. Town-owned parking areas and lots shall not be considered private property for purposes of this Section and state law. In the event a vehicle or trailer is towed, to the extent permitted by applicable state law, the owner of the vehicle or trailer shall be charged a fee for the cost of the towing and shall further be charged a fee for the cost of the storage of the vehicle or trailer. The towing and storage of a vehicle or trailer shall be a remedy available to the Town in addition to and separate from the Town's right to charge the owner or operator of the vehicle or trailer with a violation of this Article.

(9) Driver and owner liability for violations.

No driver shall stop or park a vehicle and no owner of a vehicle shall fail to prevent the stopping or parking of that vehicle in violation of any of the prohibitions or requirements of this Section 1214. It shall constitute prima facie evidence that the registered owner of the vehicle in violation was the person who stopped or parked the unattended vehicle. In any event, both the owner and the driver are jointly and severally liable for any such violation. Vehicles parked in violation of this Article may be ticketed, towed and impounded as provided by subsection (8) and applicable state law.

(6) Section 1406(5) of the *Model Traffic Code* is hereby deleted.

(7) Repeal and Replace Section 1503. Section 1503 of the Model Traffic Code, concerning operating motorcycles and autocycles on roadways is hereby repealed and replaced with a new Section 1503 that is consistent with the state law adopted by the Colorado General Assembly in 2024 pursuant to SB 24-079 as follows:

1503. Operating motorcycles and autocycles on roadways laned for traffic.

- (1) All motorcycles are entitled to full use of a traffic lane, and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a traffic lane. This subsection (1) shall not apply to motorcycles operated two abreast in a single lane.
- (2) The driver of a motorcycle or autocycle shall not overtake or pass in the same lane occupied by the vehicle being overtaken.

- (3) (a) A person shall not drive a motorcycle or auticycle between lanes of traffic or between adjacent lines or rows of vehicles.
- (b) (I) Notwithstanding subsections (2) and (3)(a) of this section, the driver of a two-wheeled motorcycle may overtake or pass another motor vehicle in the same lane as the motorcycle if:
 - (A) The overtaken or passed motor vehicle is stopped;
 - (B) The motor vehicles in the adjacent lanes, if the lanes are for the same direction of travel as the lane occupied by the two-wheeled motorcycle, are stopped;
 - (C) The driver of the two-wheeled motorcycle is on a road with lanes wide enough to pass safely;
 - (D) The passing motorcycle is driving at fifteen miles per hour or less; and
 - (E) Conditions permit prudent operation of the motorcycle while overtaking or passing.
- (II) When the motor vehicles that are being overtaken or passed by the two-wheeled motorcycle begin moving, the driver of the motorcycle shall cease overtaking or passing a motor vehicle pursuant to subsection (3)(b)(I) of this section.
- (III) A person overtaking or passing pursuant to this subsection (3)(b) shall not overtake or pass:
 - (A) On the right shoulder;
 - (B) To the right of a vehicle in the farthest right-hand lane if the highway is not limited access; or
 - (C) In a lane of traffic moving in the opposite direction.
- (4) Motorcycles shall not be operated more than two abreast in a single lane.
- (5) Subsections (2) and (3) of this section shall not apply to police officers in the performance of their official duties.

- (8) Section 1701 of the Model Traffic Code, concerning the classification of traffic offenses and schedule of fines, is amended to read in its entirety as follows:

1701. Classification of Traffic Violations - Schedule of Fines.

- (1) Except as set forth herein, it is a traffic infraction for any person to violate any of the provisions of the *Model Traffic Code*, 2024 edition, as adopted by the Town. Such a traffic infraction shall constitute a civil matter for which there is not a right to a trial by jury.
- (2) All traffic violations for which six (6) or greater points are assessed against the driving license of a violator by the Department of Motor Vehicles for the State shall constitute criminal traffic offenses. Additionally, the offenses listed in subparagraphs (a) and (b) below for which fewer than six (6) points are assessed against the driving license of a violator by the Department of Motor Vehicles for the State shall constitute criminal traffic offenses. The following violations are criminal traffic offenses:
 - (a) Violations of *Model Traffic Code* involving driving twenty-five (25) miles or more in excess of the lawful speed limit.
 - (b) Violations of *Model Traffic Code* Sections 1105 (Speed contests), 1401 (Reckless driving), 1402 (Careless driving), 1409 (Compulsory insurance), 1413 (Eluding or attempting to elude a police officer) or 1903 (School buses - stops - signs -passing).
- (3) Traffic infractions as provided in this Code shall be subject to a maximum penalty of a fine not to exceed the fine amount set forth by ordinance. Costs, surcharges and fees as authorized by law or by ordinance may be added to the fine.
- (4) Criminal traffic offenses as provided in this code shall be subject to a maximum penalty of one (1) year of imprisonment or the maximum fine amount authorized by Town Council, or both. Cost, surcharges, and fees as authorized by law may be added to the penalty.
- (5) Notwithstanding the maximum penalties established by subsections (3) and (4) above, the Court is authorized to impose conditions and requirements other than fines and/or imprisonment, including by way of example and not limitation, required attendance of an organized class on traffic safety or defensive driving, as part of a sentence for a traffic infraction or traffic offense.
- (6) Pursuant to CMCR 210(b)(4), the court may by order, which may from time to time be amended, supplemented, or repealed, designate the violations, the penalties for which may be paid at the office of the Municipal Court Clerk.

- (9) Section 1702 of the *Model Traffic Code* is deleted.
- (10) Section 1705 of the *Model Traffic Code* is deleted and replaced with the following:

1705. Person arrested for violation.

Whenever any person is arrested by a police officer for any violation of this code, the Town law enforcement will follow its policies and procedures and this code as they pertain to summons and complaint and bond issues.

- (11) Subsection (3) of Section 1709 is hereby deleted and references contained in Section 1709 to “county court” shall be amended to read “municipal court.”
- (12) Part 18 of the *Model Traffic Code* is deleted.

Section 4. Penalties.

The following penalties shall apply to violations of the *Model Traffic Code* as adopted in this article:

- (1) All violations of the Model Traffic Code, as modified and adopted by the Town, except violations of Sections 1401, shall be punishable by a fine of not more than two thousand six hundred fifty dollars (\$2,650.00). No imprisonment shall be imposed for such violations.
- (2) Violations of Sections 1401 of the Model Traffic Code, as modified and adopted by the Town, shall be punishable by a fine of not more than two thousand six hundred fifty dollars (\$2,650.00) or by imprisonment for not more than three hundred sixty-four (364) days, or by both such fine and imprisonment.

Section 5. Interpretation.

This Article shall be so interpreted and construed as to effectuate its general purpose to conform with the State's uniform system for the regulation of vehicles and traffic. Article and section headings of the Article and adopted Model Traffic Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any article or section thereof.

Section 6. Effect of Conflict.

The *Model Traffic Code* adopted constitutes a comprehensive system of regulation and enforcement dealing with vehicles and traffic. In the event that any provision

contained in this Ordinance is in conflict with applicable state statutes which are deemed to supersede any municipal ordinance, the provision of the applicable state statute shall be controlling. In the event of any conflict between the *Model Traffic Code* and other ordinances, the Town's ordinances shall control unless state law provides that the specific provision of the *Model Traffic Code* supersedes any municipal ordinance in conflict therewith.

Section 7. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 8. Codification. This ordinance may be codified and numbered for purposes of codification without the need for further approval by the Town Council.

Section 9. Effective Date. The Ordinance shall be effective on January 1, 2025.

INTRODUCED, READ AND PASSED AS AN ORDINANCE, ON FIRST READING, AND SCHEDULED FOR PUBLIC HEARING ON _____, AT A REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO, THIS

_____ DAY OF _____, 2024.

Kenneth D. Riley, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

Ordinance No. 2024-O-12
Page 28 of 28

I hereby certify that the above Ordinance was introduced to the Town Council of the Town of Keystone at its meeting of _____, 2024 and ordered published two times by _____ on _____, 2024, and on _____, 2024, and in full on the Town web site.

ATTEST:

SEAL

By: Town Clerk or Deputy Town Clerk

READ, PASSED AND ADOPTED WITH A ROLL CALL VOTE OF ___ IN FAVOR AND ___ OPPOSED ON SECOND READING, AT A REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO, THIS _____ DAY OF _____, 2024.

Kenneth D. Riley, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

TOWN OF KEYSTONE, COLORADO

STAFF REPORT

TO: Mayor & Town Councilmembers

THROUGH: John Crone, Town Manager
Lindsay Hirsh, Community Development Director

FROM: Jennifer Madsen, Town Attorney
Keith Martin, Attorney

DATE: November 12, 2024 – Council Meeting

SUBJECT: [SECOND READING] 2024-O-13, An Ordinance of Town Council of the Town of Keystone, Colorado, Designating The Site Selection Of Arterial Highways, Interchanges, And Collector Highways, The Site Selection And Construction Of Major New Domestic Water And Sewage Treatment Systems And Major Extension Of Existing Domestic Water And Sewage Treatment Systems, And The Site Selection And Construction Of Major Facilities Of A Public Utility As Matters Of State Interest, Enacting *The Town Of Keystone Areas And Activities Of State Interest* Governing The Designation, Permitting, Regulation And Administration Of Matters Of State Interest, And Providing Penalties For Violations Thereof

Executive Summary:

Ordinance 2024-O-13 is the designation of activities of state interest and adoption of Town of Keystone 1041 Regulations for the permitting process for these activities of state interest.

Recommendation:

Staff recommends that Council approve Ordinance 2024-O-13 on second reading.

Background:

At the most basic level, local government 1041 regulations are a land use tool for municipalities. As a planning tool, 1041 regulations give a local government a “seat at the table” during the review of particular development projects occurring in the jurisdiction, even when the project has statewide impacts.

In 1974, the Colorado legislature enacted the Areas and Activities Of State Interest Act which defines the authority of state and local governments in making land use planning decisions for matters of statewide interest. The Areas and Activities Of State Interest Act (“Act) was adopted pursuant to House Bill 74-1041 and accordingly, regulations adopted by local governments under the authority identifying the Areas and Activities Of State Interest Act are often referred to as “1041 Regulations.”

The legislative purpose of the Act was, in part, to clarify the relative authority of state and local governments over land use decisions concerning matters of statewide interest. The General Assembly encouraged local governments to "designate areas and activities of state interest and, . . . promulgate guidelines for the administration thereof." The Act delegates powers, commonly called “1041 Powers,” to local governments allowing local governments to identify, designate, and regulate areas and activities of state interest through a local permitting process. The general intent of 1041 Powers is to allow local governments to maintain their control over certain types of projects because they have statewide or regional impacts.

The Act does not require that every local government exercise 1041 powers. However, local governments must make a designation and adopt regulations

before 1041 powers may be used. Using 1041 powers is a powerful land use regulatory step for local governments given that the general rule in Colorado is that local regulations are preempted by state regulations in areas of exclusive state-wide concern. The Act alters that general rule for those areas and activities of state interest identified in the lists below. The Act assigns the following functions to local governments in their exercise of authority under the Act:

- Designate matters of state interest.
- Hold hearings on applications for permits for development with respect to matters of state interest.
- Grant or deny applications for permits applications for permits for development with respect matters of state interest.
- Receive recommendations from state agencies and other local governments relating to matters of state interest.
- Send recommendations to other local governments relating to matters of state interest.

The Act identifies the areas of land and the activities qualifying as “matters of state interest” local governments may designate.

The "areas of state interest" local governments may designate include:

- Mineral resource areas;
- Natural hazard areas (including floodplains, wildfire hazard areas and geologic hazard areas);
- Areas containing, or having a significant impact upon, historical, natural, or archaeological importance; and
- Areas around certain “key facilities” including airports, rapid or mass transit terminals, interchanges involving arterial highways, and major facilities of a public utility.

The Act authorizes local governments to designate the following “activities of state interest”:

- Site selection and construction of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems;
- Site selection and development of solid waste disposal sites;
- Site selection of airports;
- Site selection of arterial highways and interchanges and collector highways;
- Site selection and construction of major facilities of a public utility;
- Site selection and development of new communities;
- Efficient utilization of municipal and industrial water projects; and
- Conduct of nuclear detonations.

Local governments may choose to adopt 1041 regulations for any one or all of these areas or activities of state interest. Once adopted, development activities in these designated areas or activities are required to obtain a 1041 from the local government.

[Draft Ordinance designating activities of state interest and adopting 1041 regulations:](#)

Ordinance 2024-O-13 adopts 1041 regulations and designates the following activities of state interest:

- Site selection and construction of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems;
- Site selection of arterial highways and interchanges and collector highways;
- Site selection and construction of major facilities of a public utility;

The 1041 Regulations provide that if a person is interested in development of an activity of state interest, the regulations require the following process for the development to proceed:

- 1) Applicant must set a pre-application meeting with Town Staff to discuss the project.
- 2) Following pre-application meeting, Town Staff will review the development and determine whether the development is not likely to have significant effects, or the significance of the effects is unknown – Finding of No Significant Impacts (FONSI). If there is a FONSI determination, then a 1041 permit is not required and the person may continue with the development.
- 3) If a permit is required, the person must submit the application with all the required information.
- 4) The completed application is provided to the Planning & Zoning Commission for review and recommendation (this is not a quasi-judicial hearing).
- 5) Town Council holds a quasi-judicial public hearing on the application and determines whether the criteria for the application has been met. The criteria outlined in the regulations are set by state statute, with additional Keystone-specific requirements, such as ensuring the activity is designed and developed in a manner that is consistent with the Town's comprehensive plan.

The goal of the proposed process is to provide the Town with a review when needed to for significant projects. As such, the process is structured to:

- comprehensively identify all potential environmental impacts and other effects directly related to the changes in the physical environment caused by the proposed development;
- assess whether those anticipated impacts are significant or not; and

- if they are significant, then allow the Town to impose conditions on the development activity—do this or do that—that will address, reduce, or mitigate those impacts.

The substantive review criteria are designed to: (1) ensure the applicant is doing everything it can possibly do to avoid significant impacts and, where unavoidable, to mitigate or offset them in some way; and (2) ensure the site of the project is the most appropriate location and that the applicant will responsibly develop and operate the project; and (3) discourage development projects from occurring on inappropriate sites and which don't actually advance any benefits, especially where unavoidable impacts will not be mitigated or the proposed changes in the physical environment resulting from the development activity present an unacceptable risk of injury to the public health, safety, and welfare.

Alternatives:

Town Council may provide alternative direction on designation of activities of state interest and the 1041 regulations.

Financial Considerations:

There are no financial considerations applicable to this ordinance.

Previous Council Actions:

Implementing 1041 regulations was discussed with Town Council at the work sessions on April 23 and September 10, 2024. Town Council approved the ordinance on first reading at the October 22, 2024, meeting.

Next Steps:

If Council approves this Ordinance, the effective date of the ordinance is thirty days after publication.

Suggested Motions:

Approval:

I move to APPROVE. Ordinance 2024-O-13, An Ordinance Designating The Site Selection Of Arterial Highways, Interchanges, And Collector Highways, The Site Selection And Construction Of Major New Domestic Water And Sewage Treatment Systems And Major Extension Of Existing Domestic Water And Sewage Treatment Systems, And The Site Selection And Construction Of Major Facilities Of A Public Utility As Matters Of State Interest, Enacting *The Town Of Keystone Areas And Activities Of State Interest*

Denial:

I move to DENY. Ordinance 2024-O-13, An Ordinance Designating The Site Selection Of Arterial Highways, Interchanges, And Collector Highways, The Site Selection And Construction Of Major New Domestic Water And Sewage Treatment Systems And Major Extension Of Existing Domestic Water And Sewage Treatment Systems, And The Site Selection And Construction Of Major Facilities Of A Public Utility As Matters Of State Interest, Enacting *The Town Of Keystone Areas And Activities Of State Interest*

Attachment:

- Ordinance 2024-O-13, An Ordinance of Town Council of the Town of Keystone, Colorado, Designating The Site Selection Of Arterial Highways, Interchanges, And Collector Highways, The Site Selection And Construction Of Major New Domestic Water And Sewage Treatment Systems And Major Extension Of Existing Domestic Water And Sewage Treatment Systems, And The Site Selection And Construction Of Major Facilities Of A Public Utility As Matters Of State Interest, Enacting *The Town Of Keystone Areas And Activities Of State Interest* Governing The Designation, Permitting, Regulation And Administration Of Matters Of State Interest, And Providing Penalties For Violations Thereof
- Town of Keystone Areas And Activities Of State Interest (1041 Regulations)

**TOWN OF KEYSTONE
ORDINANCE NO. 2024-O-13**

**AN ORDINANCE OF TOWN COUNCIL OF THE TOWN OF KEYSTONE,
COLORADO, DESIGNATING THE SITE SELECTION OF ARTERIAL
HIGHWAYS, INTERCHANGES, AND COLLECTOR HIGHWAYS, THE
SITE SELECTION AND CONSTRUCTION OF MAJOR NEW DOMESTIC
WATER AND SEWAGE TREATMENT SYSTEMS AND MAJOR
EXTENSION OF EXISTING DOMESTIC WATER AND SEWAGE
TREATMENT SYSTEMS, AND THE SITE SELECTION AND
CONSTRUCTION OF MAJOR FACILITIES OF A PUBLIC UTILITY AS
MATTERS OF STATE INTEREST, AND ENACTING *THE TOWN OF
KEYSTONE AREAS AND ACTIVITIES OF STATE INTEREST*
GOVERNING THE DESIGNATION, PERMITTING, REGULATION AND
ADMINISTRATION OF MATTERS OF STATE INTEREST, AND
PROVIDING PENALTIES FOR VIOLATIONS THEREOF**

WHEREAS, the Town of Keystone ("Town") is authorized to regulate the use and development of land under Colorado Revised Statutes Sections 31-23-101 *et seq.* and 29-20-101 *et seq.*; and

WHEREAS, the Town is authorized pursuant to the Areas and Activities of State Interest Act, Colorado Revised Statutes Sections 24-65.1-101, *et seq.* ("AASIA" or the "Act") to establish and designate certain areas and activities of state interest; and

WHEREAS, the AASIA authorizes the Town to adopt guidelines and regulations for administration of areas and activities of state interest, to establish and designate a permit procedure, receive applications for development in or conduct of matters of state interest, and to exercise other powers in connection therewith; and

WHEREAS, on November 12, 2024, the Town Council conducted a public hearing to consider designation of matters of State interest and adoption of guidelines and regulations for the administration thereof; and

WHEREAS, public notice of such hearing has been properly given; and

WHEREAS, the Town Council conducted a public hearing on the date and time noticed; and

WHEREAS, the Town Council having considered all relevant evidence regarding the proposed designations of activities of state interest; and

WHEREAS, the Town prepared regulations entitled "The Town of Keystone Areas and Activities of State Interest" dated November 12, 2024 (the "Regulations") to govern the designation, permitting, regulation, and administration of matters of state interest; and

WHEREAS, the Town Council desires to enact the Regulations; and

WHEREAS, the Town Council set a public hearing, with proper notice provided, to consider adoption of the Regulations as required by law; and

WHEREAS, copies of the Regulations are available at the Town's office for review and inspection by the public; and

WHEREAS, the Town Council of the Town of Keystone, Colorado **FINDS AS FOLLOWS:**

1. The present and foreseeable intensity of growth and development within the Town and region supports the designation of the following activities of state interest and adoption of the Regulations pursuant to the Act:

- (a) Site selection of arterial highways, interchanges and collector highways;
- (b) Site selection and construction of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems; and
- (c) Site selection and construction of major facilities of a public utility.

2. The designation of these activities as matters of state interest is intended to:

- (a) Enable and facilitate the local administration of site selection of arterial highways, interchanges, and collector highways, site selection and construction of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems, and the site selection and construction of major facilities of a public utility by establishing requirements that must be met before a site may be selected so that such site conforms to the permit approval criteria in the Regulations;
- (b) Ensure the historic and cultural significance of Keystone and its historic landscape is preserved;
- (c) Protect the natural, rural, and mountain character of the Town;
- (d) Prevent adverse impacts to the air and water quality in the Town;
- (e) Keep noise and light pollution to a minimum so as to preserve the quality of life in the Town;
- (f) Provide for the continuation of desirable local community patterns in the face of regional development pressures;

- (g) Ensure that such sites are compatible with surrounding land uses; and
- (h) Encourage compliance with the Town's plans;

3. The enactment and adoption of the Regulations will facilitate the designation and administration of matters of state interest.

4. A fee in an amount necessary to cover the costs incurred in the review and approval of permit applications, including all hearings conducted thereof, will facilitate and reasonably cover the costs incurred in the administration of matters of state interest.

5. All requirements of law have been met, all public notices required have been given, and a public hearing has been held as required.

**THE TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO,
ORDAINS:**

Section 1. Designation of Matter of State Interest. The Town Council hereby designates the following activities as a matter of state interest:

- (a) Site selection of arterial highways, interchanges and collector highways;
- (b) Site selection and construction of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems; and
- (c) Site selection and construction of major facilities of a public utility.

Section 2. Boundaries of Area Covered by Designation.

- (a) The site selection of any arterial highway or interchange or collector highway within the incorporated boundaries of the Town of Keystone, as those boundaries may change from time to time, shall be subject to this designation.
- (b) The site selection and construction of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems within the incorporated boundaries of the Town of Keystone, as those boundaries may change from time to time, shall be subject to this designation.
- (c) The site selection and construction of major facilities of a public utility within the incorporated boundaries of the Town of Keystone, as those boundaries may change from time to time, shall be subject to this designation.

Section 3. Adoption of Guidelines and Regulations For Areas and Activities of State Interest. The Town of Keystone Areas and Activities of State Interest dated November 12, 2024, is hereby enacted and adopted by reference as the Town of Keystone Guidelines and Regulations For Areas and Activities of State Interest as if fully set out in this section without further additional, deletions, insertions, or changes.

Section 4. Purpose of Guidelines and Regulations For Areas and Activities of State Interest. The purpose of The Town of Keystone Areas and Activities of State Interest is to provide a comprehensive set of rules and regulations designed and intended to identify and regulate projects that could cause excessive noise, water, and/or air pollution, or which would otherwise degrade or threaten the existing environmental quality within the Town, promote efficient and economical use of public resources, and protect the public health, safety, welfare and the environment.

Section 5. Availability of Copies of Codes Adopted Hereby. At least one (1) certified true copy of the Town of Keystone Areas and Activities of State Interest enacted by this Ordinance shall be on file in the office of the Town Clerk and available for inspection during regular business hours.

Section 6. Enforcement and Penalties. The penalty provisions set forth in Section 4-10 of The Town of Keystone Areas and Activities of State Interest apply to any violation of any provision of this Ordinance or of the guidelines and regulations enacted hereby. Those penalty provisions are set forth *verbatim*, as follows:

It is unlawful and a violation of these regulations for any person to engage in or to undertake any development in an area designated pursuant to these regulations, or to conduct an activity designated pursuant to these regulations, without a permit issued pursuant to these regulations, or to fail or refuse to comply with permit requirements, or to act outside the authority of the permit. A separate violation shall be deemed to occur on each day that violation of this provision occurs or continues.

Section 7. Penalty. Any person convicted in the Municipal Court of a violation of any provision of the Regulations for which a different penalty is not specifically provided may be punished by a fine not exceeding two thousand seven hundred dollars (\$2,700.00), as adjusted for inflation on January 1, 2018, and on January 1 of each year thereafter. In addition, such person shall pay all costs and expenses in the case. Each day such violation continues shall be considered a separate offense.

Section 8. Repealer. All ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or

superseded.

Section 9. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 10. Codification. This ordinance may be codified and numbered for purposes of codification without the need for further approval by the Town Council.

Section 11. Effective Date. This ordinance shall take effect and be enforced thirty (30) days after final publication.

INTRODUCED, READ AND PASSED AS AN ORDINANCE, ON FIRST READING, AT A REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO, THIS _____ DAY OF _____, 2024.

Kenneth D. Riley, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

READ, PASSED AND ADOPTED WITH A ROLL CALL VOTE OF ___ IN FAVOR AND ___ OPPOSED ON SECOND READING, AT A REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO, THIS _____ DAY OF _____, 2024.

Kenneth D. Riley, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

TOWN OF KEYSTONE, COLORADO

Areas and Activities of State Interest

**Published by the Town Council
Town of Keystone, Colorado**

Areas and Activities of State Interest

Article I General provisions

Sec. 1-10 Title

The regulations set forth below may be cited as the "Keystone Regulations for Areas and Activities of State Interest," or the "Keystone 1041 Regulations"¹ and may be referred to as "these Regulations."

Sec. 1-20 Purpose and findings.

(a) The purpose of these Regulations is to facilitate identification, designation, and administration of matters of state interest consistent with the statutory requirements and criteria set forth in Sections 24-65.1-101, *et seq.*, C.R.S. as amended.

(b) The specific purposes are to:

- (1) Regulate and provide for a permitting system to change the physical environment to facilitate a project and to impose substantive requirements on the permittee to provide mitigation measures that minimize the harm or negates the severity of the harm resulting from those changes, and to require the permittee to pay compensatory mitigation for the purposes of offsetting those changes that are unavoidable;
- (2) Promote efficient and economical use of public resources; and
- (3) Protect the public health, safety, welfare and the environment.

(c) The Town Council finds that:

- (1) The notice and public hearing requirements of Section 24-65.1-404, C.R.S., have been followed in adopting these Regulations;
- (2) These Regulations are necessary because of the intensity of current and foreseeable development pressures on and within the Town;
- (3) These Regulations are necessary to protect the public health, safety, welfare, the environment, and historic, cultural and wildlife resources;
- (4) These Regulations apply to the entire Town; and
- (5) These Regulations interpret and apply to any provisions adopted for specific areas of state interest and specific activities of state interest which have been, or may be, designated by the Town Council.

¹The reference to "1041 Regulations" stems from the numbering of the original state legislative bill, H.B. 74-1041 which bill enacted Article 65.1 of Title 24, C.R.S., titled *Areas and Activities of State Interest*.

Sec. 1-30 Authority.

These Regulations are authorized by Colorado Revised Statutes Sections 24-65.1-101, *et seq.*, 31-23-101, *et seq.*, 29-20-101, *et seq.*, 24-32-111, and Article 15 of Title 31, C.R.S.

Sec. 1-40 Applicability.

These Regulations shall apply to all proceedings concerning the identification and designation by the Town Council of any area or activity of state interest and the control of development in any area of state interest or the conduct of any activity of state interest which has been or may hereafter be designated by the Town Council in any area of the town, whether on public or private land.

Sec. 1-50 Permit Required.

Other than as stated in Section 1-40, 1-50, and 3-50, no person may conduct a designated activity of state interest or develop in a designated area of state interest within the Town without first obtaining a permit or a permit amendment under these Regulations.

Sec. 1-60 Exemptions.

These Regulations shall not apply to the following:

- (a) Any proposed development plan issued a FONSI pursuant to Section 3-50.
- (b) Any fully constructed and operating project or facility that was lawfully developed under prior law in effect before the effective date of these Regulations that would be subject to these Regulations if it were currently proposed, may continue to operate, except that enlargement or expansion of any such project or facility shall require a permit under these Regulations unless an exemption exists or a FONSI is issued. An enlargement or expansion requiring a permit shall not include the maintenance, repair or replacement of existing buildings or structures associated with an existing facility, including retrofitting or updating technology, provided any changes do not result in a material change as determined by the Town Manager. Enlargements or expansions not requiring a permit may still be subject to an applicable Land Use Code development review process.
- (c) Any development in an area of state interest or any activity of state interest if, on May 17, 1974:
 - (1) The specific development or activity was covered by a current building permit issued by the Town;
 - (2) The specific development or activity was directly approved by the electorate of the state or the Town; provided that, approval by the electorate of any bond issue by itself shall not be construed as approval of the specific development or activity;
 - (3) The specific development or activity is on land which had been finally approved, with or without conditions, for planned unit development or for a use other than a subdivision substantially the same as planned unit development;

- (4) The specific development or activity is on land which was either zoned or rezoned in response to an application which specifically contemplated said specific development or activity; or
- (5) The specific development or activity is on land with respect to which a final plat for a subdivision had been approved, with or without conditions.

Sec. 1-70 Interpretation with other enactments and plans.

- (a) Whenever any provision of these Regulations is found to be inconsistent with any other ordinance, code, regulation, other enactment, or the comprehensive plan, the enactment imposing the more restrictive standards or requirements shall control.
- (b) In the event that any provision of these Regulations is found to be less stringent than the statutory criteria for administration of matters of state interest set forth in Sections 24-65.1-202 through 204, C.R.S., the statutory criteria shall control.
- (c) Provisions of these Regulations relating to nonconforming uses shall apply as expressly set forth herein and shall, to that extent only, supersede and control over corresponding provisions of the Land Use Code of the Town of Keystone relating to nonconforming uses.

Sec. 1-80 Maps.

Each map referred to in any ordinance adopted by the Town Council designating or regulating a particular area or activity of state interest is deemed incorporated herein as if set out in full. Maps referred to in any such ordinance shall be filed with and be available for inspection at the Town of Keystone Town Hall, 1628 Sts John Road, Keystone, CO, 80435, or by contacting info@keystoneco.gov.

Sec. 1-90 Definitions.

- (a) The words and terms defined by Sections 24-65.1-102 through 24-65.1-103, C.R.S., shall have the meanings set for in such Sections unless a clear and unmistakable intent is provided by these Regulations.
- (b) The words and terms used in these regulations shall have the meanings set forth below unless the context requires otherwise:

"Applicant" means any person or entity applying for a permit under these regulations.

"Comprehensive plan" means for purpose of these Regulations, all of the following: (i) the comprehensive or master plan of the Town of Keystone prepared and adopted in accordance with the authority provided by article 23, Title 31, C.R.S., regardless of title of the plan, as it may be amended and supplemented from time to time; (ii) any Town-adopted policies, procedures, or guidelines which pertain to, guide, or regulate the use of land, development, culture, trails, open space, parks, streets, roads, and transportation facilities; and (iii) any land use plan or policy adopted in cooperation with Summit County or any other government or quasi-government pursuant to an intergovernmental agreement or other formal action by the Town.

"Designation" means the legal procedure specified by Sections 24-65.1-101, *et seq.*, C.R.S., carried out by the Town Council.

"Developer" means any person engaging or proposing to engage in development in an area of state interest or in conduct of an activity of state interest designated or proposed to be designated under these regulations.

Finding of no significant impact (or FONSI) shall mean the decision by the Town Manager, or Town Manager's designee, as to whether a proposed development plan or activity, not otherwise exempted under these Regulations, will not have a significant impact on the human environment and for which a 1041 permit therefore will not be required.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. the overflow of water from channels;
- b. the unusual and rapid accumulation of runoff or surface waters from any source; or
- c. mudslides (*i.e.* mudflows) which are proximately caused by flooding as defined in clause b. above and which are sufficiently fluid so as to flow on and over the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

"Flood hazard area" means an area containing or directly affected by a flood.

"Floodplain" means an area adjacent to a stream, which area is subject to flooding as the result of the occurrence of an intermediate regional flood and which area thus is so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes but is not limited to:

- a. Mainstream floodplains;
- b. Debris-fan floodplains; or
- c. Dry wash channels and dry wash floodplains.

Impact means the negative physical or environmental effect or consequence that is the natural, necessary, and reasonable result of development, and can include non-environmental effects that are proximately related to the change in the physical environment.

"*Interceptor main*" means a pipeline that receives wastewater flows from collector sewers to a wastewater treatment facility or to another interceptor line or meeting other requirements of the Colorado Department of Public Health and Environment to be classified as an interceptor.

"*Layman's description*" means a general, nonlegal description and the popular name, if any, of the tract of land upon which the activity or development is to be conducted. The term "general description" means "layman's description."

"*Legal description*" is any description from which it is possible to locate accurately on the ground the boundaries of the land being described.

"*Mainstream floodplain*" means an area adjacent to a perennial stream, which area is subject to periodic flooding.

"Major new domestic water system" shall mean:

- (1) A system of wells, water diversions, transmission mains, distribution mains, ditches, structures, and facilities, including water reservoirs, water storage tanks, water treatment plants or impoundments and their associated structures, through which a water supply is obtained, stored, and sold or distributed for domestic uses; or
- (2) A system of wells, water diversions, transmission mains, distribution mains, ditches, structures, and facilities, including water reservoirs, water storage tanks, water treatment plants or impoundments and their associated structures, through which a water supply is obtained that will be used directly or by trade, substitution, augmentation, or exchange for water that will be used for human consumption or household use.

And all or part of a system described in (1) or (2) above meets one or more of the following criteria:

- a. Will require a new public right-of-way or easement greater than 30-feet in width and 1,452 linear feet in length in the aggregate for the proposed development plan; or
- b. Will require a new, or utilize an existing, easement within any Town natural area or conserved land greater than 30-feet in width and 1,452 linear feet in length in the aggregate for the proposed development plan.

In determining whether a proposed development plan is a major new domestic water supply system, the Town Manager may consider water rights decrees, pending water rights applications, intergovernmental agreements, treaties, water supply contracts and any other evidence of the ultimate use of the water for domestic, human consumption or household use. Domestic water supply systems shall not include that portion of a system that serves agricultural customers, irrigation facilities or stormwater infrastructure.

"Major extension of an existing domestic water treatment system" shall mean the expansion of an existing domestic water treatment plant or capacity for storage that will result in a material change, or the extension or upgrade of existing transmission mains, distribution mains, or new pump stations that will result in a material change. Major extension of an existing domestic water treatment system shall exclude the following:

- a. Any maintenance, repair, adjustment;
- b. Existing pipeline or the relocation, or enlargement of an existing pipeline within the same public right-of-way or easement not greater than 30-feet in width and for a distance of 1,452 linear feet or less;
- c. A new pipeline or facility within an existing public right-of-way;
- d. A new pipeline or facility within easements not greater than 30-feet or less and for a distance of 1,452 linear feet or less; or
- e. A new pipeline or facility constructed partially within an existing public right-of-way and partially within adjoining easements that are not greater than 30-feet in width and for a distance of 1,452 linear feet or less.

"Major new sewage system" shall mean:

- (1) A new wastewater treatment plant;
- (2) A new lift station; or
- (3) An interceptor main or collector sewer used for the purposes of transporting wastewater that meets one or more of the following criteria:
 - a. Will require a new public right-of-way or easement greater than 30-feet in width and 1,452 linear feet in length in the aggregate for the proposed development plan; or
 - b. Will require a new, or utilize an existing, easement within any Town natural area or conserved land greater than 30-feet in width and 1,452 linear feet in length in the aggregate for the proposed development plan.

"Major extension of an existing sewage treatment system" shall mean any modification of an existing wastewater treatment plant or lift station that will result in a material change, or any extension or upgrade of existing interceptor main or collector sewer that will result in a material change. Major extension of an existing sewage treatment system shall exclude the following:

- a. Any maintenance, repair, adjustment;
- b. Existing pipeline or the relocation, or enlargement of an existing pipeline within the same public right-of-way or easement not greater than 30-feet in width and for a distance of 1,452 linear feet or less;
- c. A new pipeline or facility within an existing public right-of-way;
- d. A new pipeline or facility within easements not greater than 30-feet or less and for a distance of 1,452 linear feet or less; or
- e. A new pipeline or facility constructed partially within an existing public right-of-way and partially within adjoining easements that are not greater than 30-feet in width and for a distance of 1,452 linear feet or less; or
- f. Any sewage system facility that does not increase the rated capacity from the Colorado Department of Public Health and Environment.

"Major facilities of a public utility" means central office buildings of telephone utilities; transmission lines, power plants, and substations of electrical utilities; and pipelines and storage areas of utilities providing natural gas or other petroleum derivatives.

"Matter of state interest" means an area of state interest or an activity of state interest or both as defined under Section 24-65.1-101, et seq., C.R.S.

"Material change" means any change in a development plan approved under these Regulations which significantly expands the scale, magnitude, or nature of the approved development plan or the significant impacts considered in approval of the original permit.

"Mudflow" means the downward movement of mud in a mountain watershed because of peculiar characteristics of extremely high sediment yield and occasional high runoff.

"*Natural hazard*" means a geologic hazard or a flood.

"*Person*" means any individual, limited liability company, partnership, corporation, association, company, or other public or corporate body, and includes without limitation any political subdivision, agency, instrumentality, or corporation of the State or the United States government.

"*Planning and Zoning Commission*" means the Town of Keystone Planning and Zoning Commission.

"*Public right-of-way*" shall mean an area dedicated to public use or impressed with an easement for public use which is owned or maintained by the Town and is primarily used for pedestrian or vehicular travel for public utilities or other infrastructure. Right-of-way shall include, but not be limited to, the street, gutter, curb, shoulder, sidewalk, sidewalk area, parking area and any other public way.

"*Reservoir*" (except in the context of the separately defined term "major publicly owned reservoir") means an area of land where water is retained or an area intended for water retention, and which is used or proposed for use in whole or in part for the storage of municipal water supplies or of water which is part of a domestic water treatment system.

"*Slope*" means the gradient of the ground surface that is definable by degree or percent.

"*Town Council*" or "*Council*" means the governing body of the Town of Keystone.

"*Town Manager*" or "*Manager*" means the Town Manager for the Town of Keystone, or some other person designated by resolution or ordinance of the Town Council to be responsible for the administration and enforcement of the provisions of these Regulations.

"*Transmission main*" shall mean a domestic water supply system's line that is designed to transport raw or treated water from a water source to a water treatment plant, storage facility or distribution systems.

"*Treatment System*" shall mean either, or both, the water distribution system and wastewater collection system.

"*Unstable or potentially unstable slope*" means an area susceptible to a landslide, a mudflow, a rock fall, or accelerated creep of slope-forming materials.

"*Wastewater collection system*" means a system of pipes, conduits, and associated appurtenances that transports domestic wastewater from the point of entry to a domestic wastewater treatment facility. The term does not include collection systems that are within the property of the owner of the facility. The term is defined in Section 25-9-102(4.9), C.R.S., and as amended.

"*Wastewater treatment plant*" shall mean a facility or group of units used for treatment of industrial or domestic wastewater or the reduction and handling of solids and gases removed from such wastes, whether or not such facility or group of units discharges into state waters. Wastewater treatment plant specifically excludes individual wastewater disposal systems such as septic tanks or leach fields.

"*Water distribution main*" shall mean a domestic water supply system's pipeline that is designed to transport treated water from a transmission main to individual water customers through service laterals.

"*Water distribution system*" shall mean a network of pipes and conduits through which water is piped for human consumption or a network of pipes and conduits through which water is piped in exchange or trade for human consumption.

"*Water diversion*" shall mean removing water from its natural course or location or controlling water in its natural course or location by means of a control structure, canal, flume, reservoir, bypass, pipeline, conduit, well, pump or other structure or device or by increasing the volume or timing of water flow above its natural (pre-diversion) levels.

"*Water treatment plant*" shall mean the facilities within the domestic water supply system that regulate the physical, chemical or bacteriological quality of the water.

Sec. 1-100 Administrative interpretations.

- (a) In consultation with the Town Attorney, the Town Manager is authorized to issue written administrative interpretations of these regulations. An administrative interpretation shall not grant any form of approval and shall not modify, waive, or amend a non-ambiguous provision of these regulations. An interpretation shall be limited to clarifying, restating, or assisting in identifying the proper application of these regulations in order to enable an applicant to conform to the requirements of these regulations. All administrative interpretations shall be collected and retained by the Town Manager and made available for public inspection. Following issuance of an administrative interpretation, the Town Manager shall promptly provide a copy of the interpretation to the Town Council and the Town Attorney.

- (b) Any person aggrieved by a final written administrative interpretation issued by the Town Manager may appeal such interpretation to the Town Council. Prior to scheduling an appeal before the Council, the aggrieved party shall provide to the Town Manager written argument and evidence as to why the Manager's administrative interpretation fails to reasonably conform with the purpose, language, or intent of these regulations or unlawfully conflicts with Sections 24-65.1-101, *et seq.*, C.R.S. In advance of the date of a scheduled appeal, the Town Manager shall provide to the Council the aggrieved party's written argument and evidence along with the Manager's argument and evidence supporting the Manager's interpretation. At the scheduled date of the appeal, the Council shall administratively consider and render a decision to uphold, amend, or nullify the Town Manager's administrative interpretation. All actions to appeal an administrative decision shall be administrative in nature and decisions of the Town Council shall be final and not subject to further appeal.

Article II
Procedures for Designating Matters of State Interest

Sec. 2-10 Designation of matters of state interest.

Designations and amendments or revocations of designations may be initiated in any of the following ways:

- (a) Upon a determination by the Town Council to proceed on its own initiative.
- (b) Upon the entry of a court order requiring designation of any matter of state interest by the Town, in which event the Town Council shall hold proceedings to adopt such designation. At any time after the designation of any matter of state interest by the Town Council pursuant to court order, proceedings to revoke or amend any such designation may be held upon the subsequent order of the same court which ordered the designation.

Sec. 2-20 Inclusion in comprehensive plan.

After designation of an area or activity of state interest as provided in these Regulations, the Town Council shall initiate procedures to incorporate such designation into the comprehensive plan. The "careful and comprehensive surveys and studies" upon which the comprehensive plan must be based according to Section 31-23-207, C.R.S., shall consist of the record of the designation hearing prepared pursuant to these Regulations.

Sec. 2-30 Moratorium.

- (a) The Town Council may, in its discretion, legislatively impose a moratorium on development in an area of state interest or on conducting an activity of state interest by ordinance at any time prior to its designation pursuant to these Regulations.
- (b) The Town Council may, in its legislative discretion, provide for a special exception to any moratorium issued pursuant to subsection (a), above, pursuant to the following procedures:
 - (1) The person proposing development in a designated area of state interest or to undertake a designated activity of state interest may submit a written request seeking the Town Council consideration of a grant of a special exception. Such request shall indicate the purpose of the proposed development or activity and stating with particularity the substantial hardship that the requesting party will suffer if the special exception is not granted.
 - (2) Within forty-five (45) days after receipt of the request, the Town Council shall either: (i) summarily reject consideration of the requested exemption; or (ii) schedule the Council's consideration of the requested exemption; and (iii) in the Council's discretion, schedule a legislative hearing to receive testimony and comment on the requested exemption. The Town may extend the date for consideration or the date of a hearing for an additional forty-five (45) days if the meeting at which the consideration or hearing is scheduled is cancelled or postponed due to lack of quorum or other reason. No notice is required for the Council's consideration of a request for an exemption. If the Council elects to conduct a hearing on the requested exemption, notice of the date, time, place, and

general purpose of the hearing shall be given at least fourteen (14) days in advance of such hearing as follows:

- a. The party requesting consideration of an exemption shall be notified of the hearing by the deposit of notice in the regular U.S. mail; and
- b. Notice of the hearing shall be published in a newspaper of general circulation.
- c. Property owners deemed by the Town as potentially, directly, or substantially affected by any requested exemption may be notified by the sending of a courtesy notice. A courtesy notice is not a prerequisite or requirement for the conduct of a hearing. The method or manner for sending a courtesy notice shall be subject to the discretion of the Town.

Failure to receive a properly mailed notice, or the Town's decision to forego sending one or more courtesy notices or to elect to send courtesy notices to only some but not all owners, shall not constitute cause for vacating or rescheduling a hearing.

- (3) The Town Council may grant the special exception and order the issuance of a building permit if the Council finds all of the following:
 - a. That the development or activity is necessary to prevent an undue and significant hardship on the party requesting the exemption;
 - b. That the development or activity will not adversely affect the public interest or the purposes of the moratorium; and
 - c. That the development or activity would otherwise be lawful, proper, and in accordance with all of the ordinances and regulations of the Town if the moratorium were not in effect.

- (c) No moratorium imposed pursuant to subsection (a) above shall prohibit the continuation of any legal nonconforming use.
- (d) All actions concerning the imposition of a moratorium and the consideration, hearing, denial, or grant of a requested special exemption shall be legislative in nature.

Sec. 2-40 Public hearing, mailing list, publication.

- (a) The Town Council shall hold a public hearing before designating any matter of state interest and adopting regulations for the administration thereof.
- (b) The Town Manager shall prepare a notice of the designation hearing which shall include:
 - (1) The time and place of the hearing;
 - (2) The place at which materials relating to the matter to be designated and any provisions for the administration thereof may be examined;

- (3) If less than the entire Town, a description of the area or activity proposed to be designated in sufficient detail to provide reasonable notice as to property which would be included or affected. The notice shall include either a legal description or a general or layman's description of the property.
- (c) At least thirty (30) days but no more than sixty (60) days before the public hearing, the Town Manager shall publish the notice in a newspaper of general circulation in the Town.

Sec. 2-50 Matters to be considered at designation hearings.

At the public hearing described above, the Town Council shall consider such evidence as may appear appropriate including, at a minimum:

- (a) The intensity of current and foreseeable development pressures;
- (b) The matters and considerations set forth in any applicable guidelines for identification and designation;
- (c) Recommendations from state agencies, if appropriate;
- (d) The boundaries of the proposed area;
- (e) Reasons why the particular area or activity is of state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner;
- (f) Any master or comprehensive plan pertaining to or affected by the area or activity under consideration.
- (g) Recommendations of the Planning and Zoning Commission and any designated citizen advisory committee, if any; and
- (h) Other relevant testimony and documents presented.

Sec. 2-60 Record of designation proceeding.

- (a) The Town Manager shall provide for recording of the designation hearing by audiotape, stenographer, or other appropriate means.
- (b) The Town Manager shall collect and preserve the following record of the public hearing, at a minimum:
 - (1) Notice of hearing;
 - (2) Certificate of publication of the notice;
 - (3) Names and addresses of persons making written or oral statements, appearing as witnesses, or offering documentary evidence;

- (4) Evidence relating to the identification of the matter of state interest proposed to be designated;
- (5) Written findings concerning each of the matters referred to in section 2-50, above;
- (6) Written minutes of the decision-maker relating to the public hearing; and
- (7) The recording prepared pursuant to subsection (a), above, provided that the Town is under no obligation to transcribe such recording unless requested and paid for by a requesting party.

Sec. 2-70 Adoption of designation and regulations.

- (a) At the conclusion of the public hearing, the Town Council may adopt, adopt with modifications, or reject the proposed designation and associated provisions which were the subject of the public hearing.
- (b) Any designation shall be made by ordinance approved by a majority of a quorum of the Town Council present and voting. Rejection of a proposed designation shall be by written resolution or ordinance.
- (c) Each designation ordinance adopted by the Town Council shall, at a minimum:
 - (1) Specify the boundaries of the designated area of state interest or the boundary of the area in which an activity of state interest has been designated. Boundaries of such area shall include either a legal description or a general or layman's description of the property, as deemed appropriate by the Council. If the designation is applicable to the entire Town, the notice shall so state and no other description of the property included in the designation shall be required.
 - (2) State reasons why the particular area or activity is of state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner; and
 - (3) Set forth in full detail the regulations applicable to the designated matter of state interest.

Sec. 2-80 Recording of notice of designation.

A notice of the designation shall be certified by the Town to the Summit County clerk and recorder for filing in the real property records of Summit County.

Sec. 2-90 Combined designation and permit hearing.

If a person proposes to engage in development in an area of state interest or to conduct an activity of state interest not previously identified, designated, or for which regulations have not been adopted, the Town Council alone may hold one hearing for determination of identification, designation and regulations as well as for granting or denying the permit. No permit that is granted at the conclusion of any such hearing

shall authorize the applicant to engage in development or to conduct an activity until the identification, designation and regulations are finally determined.

Article III
Permits

Sec. 3-10 Permits required after designation; receipt of application form.

- (a) Any person who desires to engage in development within an area designated pursuant to these Regulations or to conduct an activity designated pursuant to these Regulations shall first apply for and obtain a permit as provided in these Regulations.
- (b) An application for a permit for such development or activity pursuant to these Regulations shall not be accepted unless it is complete and is in form and content as required by state law and these Regulations. If the application is considered incomplete by the Town Manager, the Town Manager shall specify what additional information is required. When a submitted application is considered to be complete by the Town Manager, the Town Manager shall note upon the application the date of its receipt.
- (c) When the applicant seeks a permit to engage in development in more than one area of state interest, to conduct more than one activity of state interest, or to engage in development in an area of state interest and to conduct an activity of state interest, a single application may be completed for all such activities or developments and may be reviewed by the Town Council in one consolidated hearing.
- (d) For any application to be considered complete under these Regulations, in addition to meeting the requirements of 3-70, below, the application shall include and cover the entire development as presently contemplated and reasonably foreseeable for the subject property or activity for a period not less than five years following the date of the application. For purposes of this subsection, the subject property is the property on which the development is located, and any other contiguous property which is under the developer's ownership or control and is otherwise subject to regulatory jurisdiction under these Regulations. The application shall describe and cover all development planned for the subject property within the said five-year period. The purpose of this requirement is to assure that the application is reviewed in a rational context of reasonably foreseeable development for the property, to avoid piecemeal analysis of applications, and to allow for a comprehensive consideration of the cumulative impacts of development under these regulations.
- (e) The Town Manager's determination regarding whether a permit application is complete may be appealed to the Town Council by the applicant in accordance with section 5-90 below.

Sec. 3-20 Application fee.

Any person who applies for a permit under these Regulations shall pay all of the actual costs incurred by the Town to review and act upon said application including any consultant costs deemed necessary by the Town Manager to assist in reviewing an application. If requested by the Town, the applicant shall deposit an amount reasonably estimated by the Town to cover such costs when the application is filed. The Town need not perform or continue any review or consideration of the application without an adequate amount to pay the costs therefor being on deposit. Any unused portion of the deposit will be refunded, and any deficit will be invoiced to the applicant and shall be paid in full prior to the Town's issuance of any permit.

Sec. 3-30 General Process Outline.

The following is a general outline of the steps required for any permit decision under these regulations. Specific information regarding each of the referenced steps follows this section.

- (a) Preapplication conference;
- (b) Finding of no significant impact (FONSI) determination;
- (c) Application submission and completeness review;
- (d) Town Manager review and agency referrals;
- (e) Review and recommendation from the Planning & Zoning Commission;
- (f) Public hearing and decision on issuance of permit by Town Council.

Sec. 3-40 Preapplication Conference.

- (a) A pre-application conference is required of all applicants.
 - (1) The applicant shall contact the Town Manager to schedule a pre-application conference within sixty (60) days after the proposal is complete to the extent of 30 percent (30%) of engineering design.
 - (2) The preapplication conference shall be held between the applicant and the Town Manager. The applicant or the applicant's authorized representative shall attend the conference. The Town Manager may require the attendance of other Town staff, Town contractors, engineers, planners, or attorneys as deemed necessary or desirable by the Town Manager.
 - a. This conference is intended to determine if a permit is required for the proposed development plan, application submittal requirements, procedural requirements, and relevant agencies to coordinate with as part of any permit review process.
 - b. The Town Manager will explain the application procedures and the materials required for submittal of an application.
 - c. The applicant or applicant's representative shall present a conceptual site plan at the conference and any other available materials that will best enable a fuller understanding of the proposal.
 - (3) If the Town Manager believes that the proposal raises any questions or impact regarding the following issues, areas, topics, or matters, the Town Manager may require the applicant to also meet with members of the appropriate Town departments, Town staff, Town contractors, or appropriate Town or citizen committees, boards, or commissions, or private landowners, or neighborhood or homeowner associations to discuss the proposal.

- (4) Topics of discussion may include, as relevant to the specific application, but are not limited to:
- a. Characteristics of the activity, including its location, proximity to natural and human-made features; the size and accessibility of the site; surrounding development and land uses; and its potential impact on surrounding areas, including potential environmental effects and planned mitigation strategies;
 - b. Flood conditions, floodway, or floodplain;
 - c. Highway, street, roadway, access, traffic concerns, parking design and engineering, and all vehicular movement patterns and volumes;
 - d. Water supply, sanitation, water quality, or other public health concerns;
 - e. Fire hazards;
 - f. Open space, parks, or trails;
 - g. Quiet enjoyment of private property or residential neighborhoods; or
 - h. Environmental, wildlife, geologic, soil, snow loading, view plane, lighting, aesthetics, or resource or community concerns;
 - i. Siting and design alternatives and reasons why such alternatives are not feasible; and
 - j. Any additional information requested by the Director as necessary to make a FONSI determination pursuant to Section 6-50.
- (b) Any comments or commitments made by any member of the Town staff during the preapplication conference are only preliminary in nature and should not be relied upon by the applicant. Formal or binding comments cannot be made by Town staff, contractors, or others until after the application is submitted and adjacent and/or nearby property owners and referral agencies have had an opportunity to respond.
- (c) Preapplication conferences may be held individually with each department, or a joint conference for all, or some, of the departments may be scheduled.
- (d) Town staff will endeavor to make available to the applicant any public information regarding the application which is in the Town's possession.

Sec. 3-50 FONSI Determination.

- (a) Upon the Manager deeming the application for a pre-application conference as complete, written notice shall be mailed to the applicant.
- (b) The Manager shall make a finding related to whether the proposed project:
 - (1) Is appropriately categorically exempt;
 - (2) Is not likely to have significant effects or the significance of the effects is unknown (FONSI) and, therefore, a permit is not required; or
 - (3) Is likely to have significant effects and, therefore, a permit is required.

The Manager shall make this determination within twenty-eight (28) days after the date the preapplication review has occurred or any requested additional information or third-party consultation is received, whichever is later.

- (c) *Significance determination —context and intensity.* In considering whether an adverse effect of the proposed development plan is significant, the Town Manager shall examine both the context of the action and the intensity of the effect. In assessing context and intensity, the Town Manager should consider the duration of the effect. The Town Manager may also consider the extent to which an effect is adverse at some points in time and beneficial in others.
 - (1) The Town Manager shall analyze the significance of the proposed development plan in several contexts. The Town Manager should consider the characteristics of the geographic area, such as proximity to unique or sensitive resources or communities. Depending on the scope of the project, the Town Manager should consider the potential regional and local contexts as well as the duration, including short-and long-term effects. The Town Manager shall also consider the following factors:
 - a. Whether the project is located wholly or partly on, under, over or within an existing or planned future Town natural area or park, whether developed or undeveloped;
 - b. Whether the project is located wholly or partly on, under, over or within a Town-owned, non-right-of-way, property or current or anticipated Town building site, whether developed or undeveloped.
 - (2) The Town Manager shall analyze the intensity of effects considering the following factors, as applicable to the proposed development plan and in relationship to one another:
 - a. The degree to which the activity or development plan may adversely affect unique characteristics of the geographic area such as historic or cultural resources, parks, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

- b. Whether the action may violate relevant federal, state or local laws or other requirements or be inconsistent with federal, state or local policies designed for the protection of the environment.
 - c. The degree to which the potential effects on the human environment are highly uncertain.
 - d. The degree to which the action may adversely affect an endangered or threatened species or its habitat, including habitat that has been determined to be critical under the Endangered Species Act of 1973.
- (d) If the Manager issues a FONSI, the applicant does not need to submit a permit application under these Regulations. However, issuance of a FONSI does not exempt the proposed development plan from all Town of Keystone Land Use Code requirements, and an alternative review process may be required.
 - (e) If the Manager issues a FONSI and the applicant subsequently makes material changes to the development plan, the applicant is required to schedule another pre-application conference pursuant to Section 3-40 to discuss the changes. Based on the new information and whether the revised development could result in significant impacts, the Manager may rescind the FONSI by issuing a written determination pursuant to below Subsection (h) and require a permit under these Regulations.
 - (f) *Permit Not Required.* If the Manager has made a finding of no significant impacts, or FONSI, a permit pursuant to these Regulations is not required.
 - (g) *Permit Required.* If the Manager determines a FONSI is not appropriate, the proposed development plan requires a permit and is subject to these Regulations. The Manager shall provide the applicant with written comments, to the extent such comments differ from comments provided for any conceptual review, regarding the proposal to inform and assist the applicant in preparing components of the permit application; including a submittal checklist, additional research questions to address common review standards or any additional information needed to deem a permit application complete, including additional scope of analysis needed to review.
 - (h) *Notice of Manager's Determination.* The Manager's determination to either issue a FONSI and not require a permit or to not issue a FONSI and require a permit shall be in writing and describe in detail the reasons for the determination. The Director shall provide the written determination to the applicant by email if an email address has been provided and promptly mail a copy of the written determination to the applicant.
 - (i) *Appeal of the Manager's Determination.* The Manager's determination not to issue a FONSI is subject to appeal to the Planning and Zoning Commission pursuant to Section 3-60. After the filing of a timely notice of appeal pursuant to Section 3-60, the Manager shall not accept any application that may be affected by an appeal decision and, if an application has been accepted, shall cease processing such application until the appeal has been decided, which in the case of an appeal to Planning and Zoning Commission shall be the date of adoption of the appeal resolution. The filing of a timely notice of appeal shall reset any time period set forth in 3-80 (Completeness) and 3-110 (Hearing Procedures) and such time period shall begin from the date the appeal is decided as previously described.

Sec. 3-60 Appeal of FONSI Determination.

The Manager's determination pursuant to Section 3-50 that a proposed development plan would have no significant impact and would not require a permit pursuant to these Regulations, or that a proposed development plan would have a significant impact and must obtain a permit pursuant to these Regulations may be appealed to the Planning and Zoning Commission as follows:

- (a) *Parties Eligible to File Appeal.* The applicant is the only party eligible to file an appeal of the Manager's determination that a proposed development plan would have a significant impact.
- (b) *Filing Notice of Appeal.* An appeal shall be commenced by filing a notice of appeal with the Manager within fourteen (14) calendar days after the date of the written final determination on a FONSI application. Such notice of appeal shall be on a form provided by the Manager, shall be signed by each person joining the appeal ("appellant"), and shall include the following:
 - (1) The name, address, email address, and telephone number of each person joining the appeal;
 - (2) The specific reasons why the appellant believes the Director's determination is incorrect; and
 - (3) In the case of an appeal filed by more than one (1) person, the name, address, email address and telephone number of one (1) such person who shall be authorized to receive, on behalf of all persons joining the appeal, any notice required to be mailed by the Town to the appellant.

The Manager shall reject any notice of appeal that is not timely filed, does not contain the information set forth in (1) - (3) above, or is not filed by a party with standing to file an appeal. The decision to reject a notice of appeal is not subject to appeal. Should multiple notices of appeal be filed, a single hearing shall be held.

- (c) The Planning and Zoning Commission shall complete its review at a public meeting and render its decision to uphold or deny the Manager's decision within thirty (30) days of the filing of the notice of appeal. The Planning and Zoning Commission's review shall be limited to consideration only of the record before the Manager. The standard of review for such an appeal shall be limited to an "abuse of discretion." Under this standard, the Planning and Zoning Commission may only overturn the Manager's decision if it finds that the Manager abused such person's exercise of discretion.
 - (1) While the Planning and Zoning Commission will not be considering any new evidence or information, the appellant has submitted an appeal request containing written argument, and the appellant will have an opportunity to submit arguments orally to the Planning and Zoning Commission regarding its position in the appeal.

- (2) The chair may place reasonable restrictions on such arguments, but the decision to place any such limits or specific parameters on the conduct of the proceeding is entirely up to the chair. For example, the chair may limit the length of time for appellant's initial oral argument to thirty (30) minutes as well as limit the length of time for the Planning and Zoning Commission 's questioning of the appellant to thirty (30) minutes.
 - (3) An appellant shall be notified in writing of any such limitations in advance. Furthermore, an appellant shall be given an opportunity to reserve any portion of their time allotted for initial oral argument for use during the period of Planning and Zoning Commission questioning or to make final statements after Planning and Zoning Commission questioning (for example, the appellant may only want to use ten (10) of their thirty (30) minutes to make their initial arguments, and reserve ten (10) of the remaining twenty (20) minutes for use to address questions and ten (10) minutes for their final statement to the Planning and Zoning Commission after addressing its questions.
 - (4) Finally, the appellant shall be entitled to make a closing argument before the Planning and Zoning Commission's deliberation.
- (d) *Effect of decision.* The Planning and Zoning Commission's decision shall be final and appealable and shall be to the courts pursuant to the applicable Colorado Rules of Civil Procedure .

Sec. 3-70 Application Submittal Requirements.

- (a) *Application.* In addition to specific submission requirements for the activities addressed in Article VI, VII and VIII, all applications for a permit under these Regulations shall be accompanied by the following materials:
 - (1) The application must include an application form designating any persons authorized to act as agent for the applicant in connection with the application, exhibit the applicant's or agent's signature, and supply all required information. The form shall be accompanied by all fees, maps, plans, and reports required by these regulations.
 - (2) The signature on an application form evidences the applicant's approval of and concurrence with all statements and commitments contained in the application.
 - (3) The application shall provide a written description of the development or activity, including any capital improvements plan, facilities plan, or other planning document which the applicant has prepared for its use, covering at a minimum a period of five years from the date of the application.
 - (4) If the application anticipates new surface development, it shall include written certification of compliance with the provisions of Article 65.5 of Title 24, C.R.S., that require examination of the public records to determine the existence and identity of owners and lessees of severed mineral interests in the property covered by the application. The application shall inform the Town of the results of such examination. If such examination reveals the existence of any such owners or

lessees the application shall include a complete list of the names and addresses of such persons and describe the severed mineral interests owned or leased by each. In accordance with section 3-110(c) below, the public hearing on the application will not be held unless the applicant furnishes the Town with signed certification confirming that the applicant has, at least 30 days prior to the said public hearing, transmitted to the Town and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, C.R.S.

- (5) The applicant shall furnish a detailed description of the need for the proposed development or activity, including but not limited to: (i) the present and projected population of the area to be served, (ii) the predominant types of users or communities to be served by the proposal, (iii) the percentage of the design capacity at which the current system is now operating, and (iv) the relationship of the proposal to the applicant's long-range planning and capital improvements programs, including specific reference to the plan(s) required to be submitted pursuant to 3-70(a)(3) above.
 - (6) An environmental impact statement prepared pursuant to section 3-70(b), below.
- (b) *Environmental Impact Statement.* The applicant shall prepare and submit a complete report, evaluation, and impact analysis of the proposed development or activity, discussing the effects in proportion to their significance, which shall include all of the documents and information set forth below:
- (1) Purpose and need statement: briefly summarize and explain the reasons the applicant is proposing the project and what the applicant expects to achieve.
 - (2) Ownership and control:
 - a. Specify whether the applicant owns in fee simple or controls (e.g., lease, license, easement) all or any portion of the property on which the proposed development or activity will be conducted, including any areas proposed for mitigation, management, utility services, and access.
 - b. For property not owned or controlled by the applicant, specify how the applicant proposes to obtain necessary ownership or control and a timeline or proposal to acquire ownership or control.
 - c. Provide documentation to support the statements and conclusions made in the report, evaluation, or analysis concerning ownership and control.
 - (3) Range of Alternatives: identify the reasonably foreseeable environmental effects of the proposed project and the alternatives in comparative form based on the information and analysis presented in the sections on the affected environment (3-70(b)(4)) and the environmental consequences (3-70-(b)(5)). In doing so, the analysis should sharply define the issues for the decision maker and provide a clear basis for choice among options. In this section, the applicant shall:
 - a. Rigorously explore and objectively evaluate reasonable alternatives to the proposed action, and, for alternatives that the applicant eliminated from

detailed study, briefly discuss the reasons for their elimination. The applicant need not consider every conceivable alternative to a proposed action; rather, it shall consider a reasonable range of alternatives that will foster informed decision making.

- b. Discuss each alternative considered in detail, including the proposed action, so that reviewers may evaluate their comparative merits.
- c. Include the no action alternative.
- d. Identify the applicant's preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference.
- e. Include appropriate mitigation measures not already included in the proposed action or alternatives.
- f. Identify the environmentally preferable alternative or alternatives amongst the alternatives considered in the environmental impact statement. The environmentally preferable alternative will best promote the environmental policies expressed in the Town's Comprehensive Plan by maximizing environmental benefits, such as addressing climate change-related effects or disproportionate and adverse effects on communities; protecting, preserving, or enhancing historic, cultural, Tribal, and natural resources; or causing the least damage to the biological and physical environment. The environmentally preferable alternative may be the proposed action, the no action alternative, or a reasonable alternative.

(4) Affected Environment:

- a. Succinctly describe the environment of the area(s) to be affected by the alternatives under consideration, including the reasonably foreseeable environmental trends and planned actions in the area(s).
- b. Use high-quality information, including reliable data and resources, and models to describe reasonably foreseeable environmental trends, including anticipated climate-related changes to the environment, and when such information is incomplete or unavailable, provide relevant information consistent with section 3-70(b)(6). This description of the affected environment, including existing environmental conditions, reasonably foreseeable trends, and planned actions in the area, should inform the applicant's analysis of environmental consequences and mitigation measures section 3-70(b)(5).
- c. The environmental impact statement may combine the description of the affected environment with evaluation of the environmental consequences section 3-70(b)(5). The description should be no longer than necessary to understand the relevant affected environment and the effects of the alternatives. Data and analyses in a statement shall be commensurate with the importance of the effect, with less important material summarized,

consolidated, or simply referenced. An applicant shall avoid useless bulk in statements and shall concentrate effort and attention on important issues. Verbose descriptions of the affected environment are themselves no measure of the adequacy of an environmental impact statement.

(5) Environmental Consequences: An analysis of:

- a. Any reasonably foreseeable environmental effects of the proposed development plan, including without limitation impacts to threatened or endangered species, air and water quality impacts, impacts to historical and cultural sites, particularly sites of significance for indigenous peoples, and economical impacts to local communities, including housing stock, businesses, property values, and considerations of aesthetics and noise expected.
- b. Any reasonably foreseeable adverse environmental effects that cannot be avoided should the proposal be implemented;
- c. The effects of the no action alternative, including any adverse environmental effects;
- d. The relationship between short-term uses of the human environment and the maintenance and enhancement of long-term productivity;
- e. Any irreversible or irretrievable commitments of the applicant's resources that would be involved in the proposal should it be implemented;
- f. Where applicable, possible conflicts between the proposed action and the objectives of federal, state, and local plans, policies, and controls for the area concerned, including those addressing climate change;
- g. Where applicable, climate change-related effects, including, where feasible, quantification of greenhouse gas emissions, from the proposed action and alternatives and the effects of climate change on the proposed development plan and alternatives;
- h. Where applicable, energy requirements and conservation potential of various alternatives and mitigation measures;
- i. Where applicable, natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures;
- j. Where applicable, relevant risk reduction, resiliency, or adaptation measures incorporated into the proposed action or alternatives, informed by relevant science and data on the affected environment and expected future conditions;
- k. Where applicable, urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures;

- l. Means to mitigate adverse environmental effects;
 - m. Where applicable, economic and technical considerations, including the economic benefits of the proposed action; and
 - n. Where applicable, disproportionate and adverse human health and environmental effects on communities.
- (6) Incomplete or unavailable information.
- a. When an applicant is evaluating reasonably foreseeable significant effects on the human environment in an environmental impact statement, and there is incomplete or unavailable information, the agency shall make clear that such information is lacking.
 - b. If the incomplete information relevant to reasonably foreseeable significant effects is essential to a reasoned choice among alternatives, and the overall costs of obtaining it are not unreasonable, the applicant shall include the information in the environmental impact statement.
 - c. If the information relevant to reasonably foreseeable significant effects cannot be obtained because the overall costs of obtaining it are unreasonable or the means to obtain it are not known, the applicant shall include within the environmental impact statement:
 - 1. A statement that such information is incomplete or unavailable;
 - 2. A statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable significant effects on the human environment;
 - 3. A summary of existing credible scientific evidence that is relevant to evaluating the reasonably foreseeable significant effects on the human environment; and
 - 4. The applicant's evaluation of such effects based upon theoretical approaches or research methods generally accepted in the scientific community.
 - d. For the purposes of this section, "reasonably foreseeable" includes effects that have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the effects is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason.
- (7) Cost-benefit analysis. If an applicant is considering a cost-benefit analysis for the proposed action relevant to the choice among alternatives with different environmental effects, the applicant shall incorporate the cost-benefit analysis by reference or append it to the statement as an aid in evaluating the environmental consequences. In such cases, to assess the adequacy of compliance with these

Regulations, the statement shall discuss the relationship between that analysis and any analyses of unquantified environmental impacts, values, and amenities. For purposes of complying with these Regulations, an applicant need not display the weighing of the merits and drawbacks of the various alternatives in a monetary cost-benefit analysis and should not do so when there are important qualitative considerations. However, an environmental impact statement should at least indicate those considerations, including factors not related to environmental quality, that are likely to be relevant and important to a decision.

- (8) Monitoring and compliance plan. Applicant shall prepare and incorporate a monitoring and compliance plan for mitigation when the analysis of the reasonably foreseeable effects of a proposed action in the environmental impact statement is based on implementation of mitigation. The contents of the plan shall include:
 - a. A basic description of the mitigation measure or measures;
 - b. The parties responsible for monitoring and implementing the mitigation;
 - c. How monitoring information will be made available;
 - d. The anticipated timeframe for implementing and completing mitigation;
 - e. The standards for determining compliance with the mitigation and the consequences of non-compliance; and
 - f. How the mitigation will be funded.

(c) *Mapping Requirements.* The following are general requirements for any map or plan required as part of the application. Minimum requirements include:

- (1) The name of the proposed development or use and total number of acres under consideration.
- (2) Because all maps and plans may be used for public presentation, the map scale and size should be large enough for effective presentation and should accurately illustrate the application.
- (3) Name, address, and telephone number of the applicant, designer, engineer, surveyor, and any other consultants of the applicant.
- (4) Date of preparation, revision box, written scale, graphic scale, and north arrow for each map
- (5) Name of specific project or file.
- (6) Water resources:
 - a. On the same, or another appropriate map, indicate any flood hazard area associated with the proposal. Documentation of historical flooding activity on the parcel where the activity or development will be located, and on other property affected by the activity or development, should be included.

Detail potential, adverse impacts related to the associated flood hazard area.

- b. Map and describe all surface waters, including applicable state water quality standards, to be affected by the project.
- c. Describe the immediate and long-term impact and net effects that the activity would have on the quantity and quality of surface water under both average and worst-case conditions.
- d. Map and describe all groundwater, including any aquifers. Describe the impacts and net effect of the activity on groundwater. At a minimum, the description should include:
 - 1. Seasonal water levels in each subdivision of the aquifer affected by the activity.
 - 2. Artesian pressure in aquifers.
 - 3. Groundwater flow directions and levels.
 - 4. Existing aquifer recharge rates and methodology used to calculate recharge to the aquifer from any recharge sources.
 - 5. For aquifers to be used as part of a water storage system, methodology and results of tests used to determine the ability of aquifer to impound groundwater and aquifer storage capacity.
 - 6. Seepage losses expected at any subsurface dam and at stream-aquifer interfaces and methodology used to calculate seepage losses in the affected streams, including description and location of measuring devices.
 - 7. Existing groundwater quality and classification.
 - 8. Location of all water wells and their uses.
- e. Map and describe wetlands, and riparian areas to be affected by the activity, including a description of each type of wetlands, species composition, and biomass.
 - 1. Describe the source of water interacting with the surface systems to create each wetland (i.e., side-slope runoff, over-bank flooding, groundwater seepage, etc.).

(7) Terrestrial and Aquatic Animals and Habitat.

- a. Map and describe terrestrial and aquatic animals including the status and relative importance of game and non-game wildlife, livestock and other animals; a description of stream flows and lake levels needed to protect

the aquatic environment; description of threatened or endangered animal species and their habitat.

- b. Map and describe critical wildlife habitat and livestock range to be affected by the activity including migration routes, calving areas, summer and winter range, and spawning beds.

(8) Threatened and endangered species

- a. Map and describe terrestrial and aquatic plant life including the type and density, and threatened and endangered plant species and habitat.

(9) Significant environmentally sensitive factors. Map of appropriate scale the juxtaposition of any of the following features present in the proposed development or activity and its environs, and detail the potential impact of the proposal upon each feature:

- a. Potential natural hazards;
- b. Public outdoor recreation and open space areas; and
- c. Unique areas of geologic, historic and archaeological importance.

- (d) Additional materials may be required by the Manager for a particular type of proposed development plan. To the extent an applicant has prepared or submitted materials for a federal, state, or county permit which are substantially the same as required herein, a copy of those materials may be submitted to satisfy the corresponding requirement below.

Sec. 3-80 Completeness Determination.

- (a) No permit application may be processed, nor shall a permit be deemed received pursuant to Section 24-65.1-501(2)(a), C.R.S., until the Manager has determined it to be complete. The applicant may submit a permit application only after at least fifteen (15) days have passed since the FONSI determination. Upon submittal of the application, the Applicant shall determine whether the application is complete or whether additional information is required, and if so, shall inform the applicant and pause the completeness review until information is received. Any request for waiver of a submission requirement shall be processed prior to the Manager making a determination that an application is complete. The Manager may retain at the applicant's cost third-party consultants necessary to assist the Manager with the completeness review. If the Manager retains a third-party consultant for permit review, the scope of work will be available for review by the applicant.
- (b) No determination of completeness may exceed sixty (60) days unless one or more of the following occurs
- (c) When the Manager has determined that a submitted application is complete, or the time limit for making the completeness determination has elapsed even though the application may not be complete, the Manager shall inform the applicant in writing of the date of its receipt. Only upon the Manager's determination that an application is complete, or the time limit for making the completeness determination has elapsed even though the application

may not be complete, may the Town's formal review process commence pursuant to these Regulations.

Sec. 3-90 Consultants.

- (a) If the Town does not have qualified staff to review certain elements of an application, or referral agencies are not able to adequately advise the Town regarding certain elements of an application, the Town Manager in consultation with the Town Council may authorize the review be performed by a consultant to be engaged or approved by the Town Manager. The Town Manager, in consultation with the Town Council shall have the discretion to decide whether the applicant shall pay all, part of, or none of the consultants' fees, based upon the nature and extent of consulting expertise required.
- (b) If a referral agency imposes a fee for its review of the application, the public hearing on the application will not be held until such referral agency's fees have been paid in full.

Sec. 3-100 Agency referrals; notice of filing.

- (a) Referral of Applications. When an application meeting the requirements of these Regulations is filed with the Town, relevant portions of the application materials as determined by the Town Manager shall be referred to the agencies listed below. Based on the specifics of the application, the Town Manager may waive referrals that are not necessary to a complete review of the application.
 - (1) The State Engineer shall review the application to ensure conformity with all applicable regulations of the Colorado Division of Water Resources and for comment on applicable water rights administration and determination concerns.
 - (2) The Colorado Department of Public Health and Environment and Summit County Health Department shall review the application for conformity with all applicable State and County health related regulations.
 - (3) The Colorado Geological Survey may evaluate those geologic factors which would have a significant impact on the proposed use of the land.
 - (4) CDOT shall review the application for conformity to the State Highway Access Code, STIP and the regulations relative to the administration of state and federal transportation systems.
 - (5) The Colorado Division of Wildlife and the Colorado Natural Areas Council shall review all applications in areas affecting natural resources of statewide importance.
 - (6) The Town may engage an engineering consultant to review all engineering aspects of the proposal, including referral responses and other relevant evidence, and shall transmit findings and preliminary recommendations to the Town Manager.
 - (7) The Town Manager shall review the application for open space and environmental impacts.

- (8) The Town Manager shall evaluate the application for conformance with the Comprehensive Plan, these regulations, sound planning, and comments from the referral agencies and individuals.
- (9) The Colorado Water Conservation Board shall review the application for flood hazard impacts.
- (b) Notice of filing. On or before the date on which the first referral made pursuant to subsection (a) above is sent, notice of the filing of the application and of its availability for inspection and copying by the public shall be posted at town hall and posted on any website maintained by the Town. Such notice shall include the name of the proposal, the general location of property affected by the proposal, the proposed uses and impacts of the proposal, and any other information deemed appropriate by the Town Manager.
- (c) Referral responses. Referral responses must be received by the Town Manager within 20 days after referral in order to ensure that recommendations and findings are considered. Failure of any referral agency to respond within the above-mentioned time period, or within the period of any extension granted by the Town Manager, may be regarded as a lack of response and not as a response that the proposal presents no conflict.
- (d) Post Referral Action. If referral comments received by the Town require response from the applicant, the following actions shall occur:
 - (1) The Town Manager will send the relevant comments from referral agencies to the applicant as soon as possible following the Town's receipt of the comments.
 - (2) Within 14 days after transmittal of comments, or by a later date specified by the Town Manager, the applicant shall respond in writing to those issues raised during the referral process that are identified by the Town Manager for applicant response.
 - a. Such response shall be considered an amendment to the application and shall be made part of the application to be used as a basis for a final recommendation by the Town Manager.
 - b. If the Town Manager finds that this new information results in a substantial change in the proposal, the Town Manager may re-refer the amended application and supporting materials to the referral agencies. The processing schedule will be amended accordingly.
 - c. If the applicant is unable to supply responses within the 14 days allowed, then the applicant may request, in writing, a delay in processing the application for up to 90 days.
 - d. If the applicant fails to supply satisfactory responses within the specified time, the Town Manager may either base the Town Manager's recommendation on review of the file as it exists or reject the application as a result of the failure to provide information necessary to its proper review.

- (e) The Town Manager shall transmit the referral comments and the applicant's responses thereto to the Planning and Zoning Commission and the Town Council for their consideration at their respective consideration on the application.

Sec. 3-110 Notice of permit hearing.

- (a) Not later than thirty (30) days after receipt of a completed application for a permit, the Town Council shall set and publish notice of a date, time, and place for a hearing before it on said application. Such notice shall be published once in a newspaper of general circulation in the Town, not less than thirty (30) nor more than sixty (60) days before the date set for hearing. On or before the date of publication said notice shall also be mailed to the applicant, posted at town hall, and posted on any website maintained by the Town.
- (b) At least fourteen (14) days prior to the Town Council's hearing, the Manager shall mail notice to the applicant of a date, time, and place for a review without a public hearing before the Planning and Zoning Commission where a recommendation will be made on said application. Such notice shall also be published once in a newspaper of general circulation in the Town at least seven (7) days before the date set for hearing. The Manager shall also mail written notice to the owners of record of all real property within eight hundred (800) feet (exclusive of public rights-of-way, public facilities, parks or public open space) in all directions of the location of the proposed development plan.
 - (1) The Planning and Zoning Commission shall conduct its review of the application at a public meeting. In conducting the review, the Planning and Zoning Commission shall review the application materials and the applicable review criteria as a business item only, and shall not receive testimony from interested parties—including the general public—on the application. The Planning and Zoning Commission shall recommend that the Town Council approve, approve with conditions, or deny the application based on the applicable approval criteria.
- (c) Notwithstanding any other provision of these Regulations, the applicant shall be solely responsible for complying with any applicable requirements of Article 65.5 of Title 24, C.R.S. Therefore, if the application is one for surface development which requires compliance with Article 65.5 of Title 24, C.R.S., and if the applicant has certified as part of its application submittal that mineral estate owners or lessees owning less than full fee title in the property which is the subject of the application exist, the public hearing on the application before Town Council shall not be held unless the applicant provides signed certification confirming that the applicant has, at least 30 days prior to the said public hearing, transmitted to the Town and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, C.R.S.
- (d) If the applicant has failed to provide notice of the public hearing on its application as required Article 65.5 of Title 24, C.R.S. at least 30 days prior to the said public hearing, the Town Council, or the Town Manager on behalf of the Town Council, may continue, reschedule, or vacate the public hearing to allow proper notice to be provided under Article 65.5 of Title 24, C.R.S.

Sec. 3-120 Conduct of permit hearing.

- (a) The decision-maker conducting the hearing shall hear relevant oral and documentary evidence, including any recommendations of the Town Manager and the Planning and Zoning Commission.
- (b) The Town Manager shall provide for recording of the hearing by audiotape, stenographer, or other appropriate means within the Town Manager's sole discretion.
- (c) The Town Manager shall collect and preserve the following record of the public hearing:
 - (1) The permit application;
 - (2) The names and addresses of all persons making oral or written statements, appearing as witnesses, or offering documentary evidence;
 - (3) Any documentary evidence or written statements or testimony presented in support of or in opposition to the permit application;
 - (4) The recording and any transcript of the hearing as provided in subsection (b), above, provided that the Town is under no obligation to transcribe the recording unless requested and paid for by the requesting party;
 - (5) Written minutes of the decision-maker relating to the public hearing;
 - (6) The resolution of the decision-maker; and
 - (7) A copy of the permit, if issued.

Sec. 3-130 Approval or denial of a permit application.

- (a) The burden of proof shall be upon the applicant to show compliance with all applicable standards of the Regulations. To the extent a permit application may not comply with a particular standard, the applicant may demonstrate compliance with such standard by proposing mitigation measures that sufficiently offset the extent of noncompliance.
- (b) If the decision-maker finds that there is insufficient information concerning any material feature of a proposed development or activity, the decision-maker may deny the application, approve with conditions which, if fulfilled, would bring the development plan into compliance with all applicable standards or may continue the hearing until the additional information has been received to reopen a previously closed public hearing for additional information to be received. No such continuance may exceed sixty (60) days unless agreed to by the applicant.
- (c) The decision-maker may approve an application for a permit to engage in development in an area of state interest or for the conduct of an activity of state interest if the applicant satisfactorily demonstrates that the development plan, in consideration of all proposed mitigation measures and any conditions, complies with all applicable standards. If the proposed development does not comply with such provisions, the permit shall be denied. The decision-maker may, at its sole discretion, elect to impose reasonable conditions and requirements upon approval of the permit to assure compliance with such provisions (a

“conditional approval”). An applicant’s express rejection of a condition or requirement imposed upon an approval shall authorize the decision-maker to reconsider the conditional approval and enter a decision to deny the application.

- (d) The Town Council shall reach a decision on a permit application within 90 days after the completion of the permit hearing, or the permit shall be deemed approved. To the extent the public hearing is reopened and closed, the closing date of the public hearing shall be measured from the most recent closing date.
- (e) Final action approving or denying a permit application shall be by resolution stating the Town Council's reasons for its decision and its findings and conclusions.

Sec. 3-140 Issuance of permits; conditions.

- (a) The permit shall be issued in the form adopted by the Town Manager.
- (b) The permit shall set forth in detail all conditions imposed upon the development by Town Council to ensure that the purpose, requirements, and standards of these Regulations are continuously met throughout the development, execution, operational life, and any decommissioning period.
- (c) The Town Council may establish and set forth in the permit the time or times within which substantial development activity subject to the permit must commence, or within which specified and defined substantial progress with a designated activity must occur.
- (d) Issuance of a permit signifies only that a development plan has satisfied, or conditionally satisfied, the applicable Regulations, and prior to commencing any development, conditions of the permit, additional Land Use and Development Code, other town requirements, or other state or federal requirements, may need to be met.
- (e) A certified copy of the permit shall be recorded in the real property records of the clerk and recorder of Summit County.

Sec. 3-150 Financial security.

- (a) As a condition of issuing any permit, the Town Council may, in its discretion, require the applicant to file a guarantee of financial security deemed adequate by the Town Council and payable to the Town.
- (b) The purpose of such financial guarantee shall be to ensure that the permittee shall faithfully perform all requirements of the permit and any conditions imposed by the Town Council.
- (c) The amount of such financial guarantee shall be established by the Town Council upon consideration of the following criteria:
 - (1) The estimated cost of returning the site of the permitted development or activity to its original condition or to a condition acceptable to the Town for the matter of state interest for which the permit is being granted; and
 - (2) The estimated cost of completing the permitted development or activity; and

- (3) The estimated cost of complying with all requirements of the permit.
- (d) The financial guarantee may be in the form of an irrevocable letter of credit, performance bond, or escrow of either cash or corporate or municipal bonds rated at least AA by Standard and Poor's or an equivalent rating by Moody's, with such escrow agreement as is acceptable to the Town Attorney, subject to the following terms and conditions:
- (1) The Town Council may require that a cash deposit in an amount up to ten percent (10%) of the financial guarantee be provided to the town Treasurer to be placed in a separate interest-bearing account.
 - (2) The irrevocable letter of credit, performance bond, or escrow shall provide a financial guarantee that the permittee will fulfill all obligations under the terms of the permit. Letters of credit acceptable hereunder shall have an expiration date no sooner than six months following the scheduled completion of the permitted development.
 - (3) The surety issuing a performance bond shall have at least an "A" Rating from Moody's or an equivalent rating as designated by a nationally recognized rating firm and shall additionally be included in the most recent listing of companies holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies, Department of Treasury, Circular 570.
 - (4) The surety issuing an irrevocable letter of credit must maintain an office or corresponding bank within seventy-five (150) miles of the Town and shall otherwise be approved by the Manager.
 - (5) The permittee shall not have greater than a ten percent (10%) ownership or managerial control over the surety issuing any financial guarantee.
 - (6) The permittee may request, and the Town shall grant, reductions in the financial guarantee for development constructed and initially accepted by the Town, provided, however, that sufficient security remains to ensure completion of all remaining obligations.
- (e) The financial guarantee may be released only when:
- (1) The permit has been surrendered to the Town Council before commencement of any physical activity on the site of the permitted development or activity;
 - (2) The development or activity has been abandoned and the site thereof has been returned to its original condition or to a condition acceptable to the Town Council in accordance with standards adopted by Town Council for the matter of state interest for which the permit is being granted;
 - (3) The project has been satisfactorily completed; or
 - (4) Applicable guaranteed conditions have been satisfied.

- (f) Any financial guarantee may be cancelled by a surety only upon receipt of the town Council's written consent, which consent may be granted only when such cancellation will not compromise the purposes of the security.
- (g) In the event that, prior to release of a financial guarantee filed pursuant to these Regulations, the license to do business in Colorado of the surety upon financial guarantee is suspended or revoked by any state authority, the financial guarantee should expire, the surety issuing the financial guarantee becomes nonqualifying, or the cost of completing the permitted development, or returning the site to an acceptable condition, is reasonably determined by the Town to be greater than the amount of the financial guarantee provided, then the Town shall furnish the permittee with written notice of such conditions, and within thirty (30) days of receipt mailing of such notice, the permittee shall provide the Town with a substituted qualifying financial guarantee, or augment the deficient security to achieve the required security. If such financial guarantee is not timely furnished, then the permit may be suspended by the Town pending compliance herewith.
- (h) If the Town Council determines that a financial guarantee should be forfeited because of any violation of the permit or any applicable provisions adopted by the Town Council, it shall provide written notice to the surety and to the permittee and shall order the financial guarantee forfeited.
- (i) The cash deposit described in subsection (d)(1) may be used by the Town in the event of the default or alleged default of the permit holder only for the purpose of recovering on the surety or fulfilling the permit obligations of the permit holder. In the event that a reviewing court determines that there has been no default by the permit holder, that portion of any moneys expended by the Town shall be replaced in the separate interest-bearing account described in subsection (d)(1) by the Town immediately following such determination. The Town may arrange with a lending institution, which provides money for the permit holder, that said institution may hold in escrow any funds required for said cash deposit. Funds shall be disbursed out of escrow by the institution to the Town upon the Town Council's demand for the purposes specified in this section.
- (j) If the forfeiture results in inadequate funds to cover the costs of accomplishing the purposes of the financial guarantee, the Town shall take such steps as it deems appropriate to recover such costs where recovery is deemed possible.

Article IV
Common Review Standards

Sec. 4-10 Review Standards for All Applications.

In addition to the review standards for specific activities listed at Article VI, VII, and VIII, all applications under these Regulations, in consideration of proposed mitigation measures, shall be evaluated against the following general standards, to the extent applicable or relevant to the development plan, in Town Council's reasonable judgment. The standards shall be evaluated for significant impacts within the geographic context of the development plan, and relate to the magnitude, duration or likelihood of such an impact. To the extent a permit application may not comply with a particular standard, the applicant may demonstrate compliance with such standard by proposing mitigation measures that sufficiently offset the extent of noncompliance. The common review standards are as follows:

- (a) The applicant has obtained or will obtain all property rights and private landowner approvals necessary for the proposal, including surface, mineral, and water rights.
- (b) The applicant has the necessary expertise and financial capability to develop and operate the proposal consistent with all requirements and conditions.
- (c) The applicant has the necessary expertise and financial capability to implement mitigation measures established in the permit and the environmental impact statement.
- (d) The proposed development in an area of state interest or for the conduct of an activity of state interest will comply with the applicable zone district for the property or the applicant has demonstrated in writing, which demonstration accepted as legally sufficient by the Town Attorney, that the zone district designation does not legally restrict the proposed development or activity.
- (e) The proposal represents the least damaging alternative of reasonable cost among the alternatives analyzed in the environmental impact statement and, if not, the benefits of the proposal outweigh the benefits of the least damaging alternative of reasonable cost.
- (f) The applicant has, where relevant and appropriate, adopted and incorporated into its development plan all practicable mitigation measures that address or ameliorate significant environmental harms or effects from the proposal, including those measures recommended in its environmental impact statement.
- (g) The proposal is not subject to risk from landslides and rock slides, subsidence, wildfire, flood, or other natural or human-caused environmental hazards.
- (h) The development plan will not have a significant impact on the capability of local governments affected by the development plan to provide local infrastructure and services or exceed the capacity of service delivery systems. The determination of the effects of the development plan on local government services may include but is not limited to the following considerations:
 - (1) Current and projected capacity of roads, schools, infrastructure, drainage and/or stormwater infrastructure, housing, and other local government facilities and

services necessary to accommodate development, and the impact of the development plan upon the current and projected capacity;

- (2) Need for temporary roads or other infrastructure to serve the development plan for construction and maintenance.
 - (i) Where relevant and appropriate, the applicant has obtained or will obtain the appropriate air quality permit from the State air pollution control division or other appropriate regulatory authority within the State department of public health and environment, and the development plan demonstrates the proposal will comply with all applicable standards under the Colorado Air Pollution Prevention and Control Act, Section 25-7-101 *et seq.*, C.R.S.
 - (j) Where relevant and appropriate, the applicant has obtained or will obtain the appropriate water quality permit from the State water quality control division or other appropriate regulatory authority within the State department of public health and environment, and the development plan demonstrates the proposal will comply with all applicable standards under the Colorado Water Quality Control Act, Section 25-8-101 *et seq.*, C.R.S.
 - (k) Where relevant and appropriate, the applicant has obtained or will obtain the appropriate dredge and fill permits from the U.S. Army Corps of Engineers and State water quality control division, and the development plan demonstrates the proposal will comply with all requirements and conditions of such permits.
 - (l) Where relevant and appropriate, the applicant has obtained or will obtain the appropriate permit from the U.S. Fish and Wildlife Service or National Marine Fisheries Service for any “take” (as defined under the Endangered Species Act) of an endangered or threatened species, including terrestrial and aquatic plant and animal life, and the development plan demonstrates the proposal will comply with all requirements and conditions of such permits.
 - (m) Where relevant and appropriate, the applicant has obtained or will obtain the appropriate federal and state permits for the handling, storage, disposal, and transportation of hazardous materials or regulated substances, and the development plan demonstrates the proposal will comply with all requirements and conditions of such permits and all applicable standards under the federal and State Resource Conservation and Recovery Act regulations.
 - (n) Where relevant and appropriate, the applicant has obtained all other permits and approvals from the appropriate regulatory authority for the proposal.
 - (o) The proposal is not subject to risk of releases or threatened releases of hazardous waste and substances, or becoming the subject of a National Priorities List or cleanup response action under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).
 - (p) The development plan will not cause a nuisance. The determination of nuisance impacts of the development plan may include but is not limited to the following considerations: increase in odors, dust, fumes, glare, heat, noise, vibration or artificial light.

- (q) The proposal will not cause unreasonable loss of significant cultural resources, including but not necessarily limited to historical resources or sites and archaeological artifacts or sites.

- (r) The proposal represents the complete, reasonably foreseeable development for the subject property as required under Section 3-10(d), above, except that the Town Council may approve development constituting less than the complete development provided that the applicant clearly demonstrates that a lesser proposal constitutes a discrete phase of the complete development as supported by the applicable master planning document required under Subsection 3-10(d), which can be logically and adequately reviewed as a separate project under the applicable criteria of these Regulations.

Article V
Administration, enforcement, penalties, and judicial review

Sec. 5-10 Enforcement and penalties.

It is unlawful and a violation of these Regulations for any person to engage in or to undertake any development in an area designated pursuant to these Regulations, or to conduct an activity designated pursuant to these Regulations, without a permit issued pursuant to Article III of these Regulations, or to fail or refuse to comply with permit requirements, or to act outside the authority of the permit. A separate violation shall be deemed to occur on each day that violation of this provision occurs or continues.

Sec. 5-20 Mapping disputes.

Where interpretation is needed as to the exact location of the boundary of any designated area and where there appears to be a conflict between a mapped boundary and actual field conditions, the Town Manager shall make the necessary determination of the boundary. Any person contesting the location of the boundary shall be given an opportunity to present his case to the Town Manager.

Sec. 5-30 Town Manager authority; right of entry.

The Town Manager is hereby authorized and directed to inspect and examine the use, occupation or development of or activity in each and every area or activity designated pursuant to these Regulations for the purpose of determining from time to time whether or not any use, occupation, development or activity is in violation of any of the provisions of these Regulations or of any permit issued or required pursuant hereto. Duly authorized representatives of the Town, bearing proper credentials and identification, shall be permitted to enter upon all property at reasonable times for the purpose of inspecting, observing, measuring, sampling and testing in connection with the enforcement and administration of these Regulations or any permit issued pursuant hereto, and for the performance of any duty or function authorized to or required of the Town pursuant to these Regulations.

Sec. 5-40 Revocation or suspension of permits.

In addition to and without waiving any other available remedy, the Town shall have and may exercise the right to suspend or revoke any permit issued pursuant to these Regulations when any violation of these Regulations or the terms or conditions of such permit occurs or continues, including without limitation the failure of the permittee to proceed with development in a designated area or with a designated activity within the times specified in the permit, in accordance with the following:

- (a) Immediate suspension or revocation. The Town Manager may immediately suspend a permit when such suspension is necessary to stop or prevent an actual or threatened imminent endangerment to the health or welfare of any person or to the environment, or interference with or damage to Town facilities. The permittee shall have the right to a prompt hearing following such termination or suspension as provided in subsection (b) below.
- (b) Notice and opportunity for hearing.
 - (1) When it appears that any cause for suspension or revocation of a permit exists, the Town Manager may mail or deliver to the permittee a notice advising him of the following:

- a. The alleged violation;
 - b. That the permit will be suspended or revoked on account of such violation on a date not less than thirty (30) days from the date of the notice unless the stated violation is sooner cured;
 - c. That there is right to a hearing before the Town Council at which the permittee may be heard concerning the alleged violation; and
 - d. That if the permittee desires a hearing, he must request the same in writing before the suspension or revocation date specified in the notice.
- (2) Delivering or mailing the notice to the address given for the permittee on the permit shall constitute delivery thereof to the owner.
 - (3) If the permittee does not cure the stated violation or request a hearing within the time provided, the Town shall forthwith order the permit suspended or revoked, as appropriate.
 - (4) If the permittee makes timely request for hearing, the Town Council shall promptly schedule and hold such hearing. The Town Council shall issue a written findings and order stating the reasons supporting its decision. Except as provided in subsection (a) above, suspension or revocation of the permit shall be stayed until the Town Council holds the hearing and renders its decision.
- (c) Execution of order. Any person notified of a suspension or revocation of his permit shall immediately cease and desist from all actions or undertakings for which the permit was required. The Town shall be entitled to exercise such remedies as deemed necessary, including injunctive relief, to enforce the suspension or revocation.
 - (d) Grounds for revocation; effect. A permit shall be revoked and not merely suspended if the violation is of such a nature that it or its adverse effects cannot be cured or reasonably mitigated, or if the permit was suspended at least two (2) times within the preceding five (5) years as a consequence of the acts or omissions of the same permittee. Any permit revoked pursuant to this section may not be reinstated. The holder of a permit which has been revoked may apply for a new permit pursuant to these Regulations.
 - (e) Reinstatement of suspended permit. Any suspension shall be rescinded by the Town upon a determination that the violation forming the basis for such suspension has been cured and that no further or other nonconforming conditions or uses by the permittee are evident. The Town shall not reinstate a permit until the person requesting reinstatement has paid the full amount of any applicable charges and any amounts expended by the Town to cure the violation or enforce the terms of these Regulations or the permit.

Sec. 5-50 Cure of violations.

- (a) Order to cure. If the Town determines that the holder of any permit issued pursuant to these Regulations is using or developing property or is conducting an activity subject to the permit in a way that is not in conformity with these Regulations or with the terms or conditions of the permit, it may give written notice thereof to the permit holder. Such notice shall specify the nonconformity, direct the permittee at its cost to perform specified curative work, and specify the period of time determined by the Town to be reasonably necessary for completion of the curative work.
- (b) Town cure at owner cost. If the permittee fails within the specified time following such notice to cure the nonconformity stated therein, the Town may, in addition to and without waiving any other remedy, perform the work and charge the permittee for its actual costs incurred in connection therewith. The costs so charged shall be a perpetual lien against any property subject to the permit until paid in full.

Sec. 5-60 Civil damages.

In addition to and without waiving any other available remedy, the Town may recover civil damages from any person liable to the Town under the laws of the United States or the State as a result of any violation of these Regulations or any permit issued pursuant hereto, or any other unlawful act or omission. Such damages shall include the Town's actual costs of discovering, investigating, curing, mitigating and repairing the consequences of such violation or other unlawful acts or omissions, including the Town's reasonable attorney fees.

Sec. 5-70 Injunctive relief.

In addition to and without waiving any other available remedy, the Town may obtain injunctive relief from or to cure any act or omission which violates these Regulations or any permit issued pursuant hereto, or which otherwise jeopardizes the property or health of any person, including the Town.

Sec. 5-80 Remedies cumulative.

The remedies available to the Town under these Regulations, and under state and federal law, shall be deemed cumulative, and the utilization by the Town of any single such remedy or combination thereof shall not preclude the Town from utilizing any other remedy or combination thereof.

Sec. 5-90 Town Manager authority; appeal.

- (a) Subject to the provisions of subsection (b) of this section, the Town Manager shall have the authority to administer, interpret and enforce the provisions of these Regulations on behalf of the Town.
- (b) Any orders, directives, determinations or decisions of the Town Manager relating to the administration, interpretation or enforcement of these Regulations may be appealed in writing to the Town Council, within thirty (30) days after the date of the order, directive or decision. The appeal shall state the specific claims of error asserted, with citations to relevant provisions of these Regulations or other relevant legal authority. The person appealing such order, directive or decision shall have the burden of demonstrating that the Town Manager abused his or her discretion, acted outside his or her authority, or that the

said order, directive or decision was plainly unreasonable and contrary to the purposes and intent of these Regulations. The order, directive or decision shall be upheld if the person appealing same fails to meet this standard to the reasonable satisfaction of Town Council.

Article VI

Site selection of arterial highways, interchanges and collector highways

Sec. 6-10 Designation.

The Town Council, having considered the intensity of current and foreseeable development pressures and applicable guidelines for identification and designation, as well as the other relevant factors set forth in Section 22-2-50, above, at a duly noticed public hearing held in accordance with Part IV of Article 65.1, Title 24, C.R.S., does hereby find and declare the site selection of arterial highways, interchanges and collector highways to be a matter of state interest and does hereby adopt the accompanying regulations requiring permits for this activity as set forth in this Article VI. The conduct of this activity within the boundaries of the Town shall be subject to this designation.

Sec. 6-20 Reasons for designation.

The site selection of arterial highways, interchanges and collector highways has been designated as a matter of state interest for the reasons set forth in section 6-10 and for the following additional specific reasons:

- (1) The historic and cultural significance of Keystone is not limited to a single structure or thoroughfare. The primary matter of state interest is the continued preservation of the historic landscape of the Town. The location of arterial highways, interchanges and collector highways within that landscape has a high potential for significant adverse impacts upon this landscape and this establishes the primary basis its designation as an activity of state interest.
- (2) The location of arterial highways, interchanges and collector highways has a high potential for significant adverse impacts upon air and water quality in the Town and this establishes a basis for its designation as an activity of state interest.
- (3) The location of arterial highways, interchanges and collector highways has a high potential for significant adverse impacts upon levels of noise in the Town and this establishes a basis for its designation as an activity of state interest.
- (4) The location of arterial highways, interchanges and collector highways has a high potential for significant adverse impacts upon the quality of life in the Town and this establishes a basis for its designation as an activity of state interest.
- (5) The location of arterial highways, interchanges and collector highways has a high potential for significant adverse impacts upon the natural, rural, and mountain character of the Town and significant adverse impacts on the visual qualities that are deemed an essential element that defines the Town.

Sec. 6-30 Applicability.

- (a) These regulations shall apply to the site selection of all arterial highways or interchange or collector highways within the Town.

- (b) Any person seeking to select a site for an arterial highway or interchange or collector highway in the Town shall obtain a permit pursuant to these regulations. The permit shall be effective only for the period of time specified by the permit.

Sec. 6-40 Purpose and intent.

The purpose and intent of the designation and regulations contained in this Article VI shall be to:

- (1) Enable and facilitate the local administration of site selection of arterial highways, interchanges and collector highways by establishing requirements that must be met before a site may be selected, to the end that any such site selected will conform to the permit approval criteria set forth in Article IV and this Article VI;
- (2) Ensure that site selection of arterial highways, interchanges and collector highways occurs so that community land use, economic development and traffic needs are met, property values are preserved, desirable community patterns are not disrupted, natural, and archaeological values are preserved and such site selection conforms to the Town's comprehensive plan, as well as regional and state master plans;
- (3) Ensure that community traffic capacity, flow and safety needs are met;
- (4) Provide for the continuation of desirable local and regional community patterns in the face of regional development pressures;
- (5) Discourage expansion of demand for government services beyond the reasonable capacity of the community or region to provide such services;
- (6) Prevent direct conflicts with local, regional, and state master plans;
- (7) Ensure that highway development is compatible with surrounding land uses;
- (8) Encourage the coordination of highway planning with the comprehensive plan and avoid highway construction which divides existing communities;
- (9) Discourage traffic hazards and congestion;
- (10) Ensure that traffic noise, air, light pollution and water pollution remain at acceptable levels;
- (11) Protect property values; and
- (12) Protect scenic, recreational, natural, historical, and archaeological resources, including the character of the Town and its mountain backdrop.

Sec. 6-50 Definitions.

Defined terms used in this Article VI shall have the meanings set forth in section 1-80, and as set forth below.

- (a) "*Applicant*" means any person, including a local, metropolitan, state or federal entity, proposing to locate an arterial highway, interchange or collector highway within the Town.

- (b) *"Arterial highway"* means any limited-access highway which is part of the federal-aid interstate system or any limited-access highway constructed under the supervision of the Colorado Department of Transportation, including any substantial modification or expansion thereof that involves a site selection or corridor location process.
- (c) *"Alternative mode of transportation"* means any mode of transportation other than a single occupancy vehicle.
- (d) *"Collector highway"* means a major thoroughfare serving as a corridor or link between municipalities, unincorporated population centers or recreation areas, or industrial centers that is constructed under guidelines and standards established by, or under the supervision of, the Colorado Department of Transportation, including any modification or expansion thereof. "Collector highway" does not include a Town street or local service road or a county road designed for local service and constructed under the supervision of a local government.
- (e) *"Constructed under guidelines and standards established by"* or *"constructed under the supervision of" the Colorado Department of Transportation* shall each include, without limitation, any of the below listed forms of participation by the Colorado Department of Transportation:
 - (1) The Colorado Department of Transportation, or any entity formed directly or indirectly by it or the Colorado Transportation Commission, or formed by contract or agreement with it or the Colorado Transportation Commission (including, without limitation, any enterprise formed under Article IV of Title 43 of the Colorado Revised Statutes or non-profit entity formed by such enterprise):
 - a. is an applicant; or
 - b. sells, leases, loans, donates, grants, conveys, assigns, transfers or otherwise provides any real or personal property or interests therein used or to be used in the proposed construction, modification or expansion of the arterial highway or interchange or collector highway including transfer or assignment of any contract to the applicant that may have been awarded for the proposed construction, modification or expansion of the arterial highway or interchange or collector highway; or
 - c. delegates authority to the applicant or is a signatory to any intergovernmental agreement or other form of contract, agreement, conveyance, delegation or authorization required for the applicant to construct, modify or expand the arterial highway or interchange or collector highway; or
 - d. performs or funds any planning, design, study, construction, supervision or maintenance functions associated with all or any portion of the construction, modification or expansion of the arterial highway or interchange or collector highway.
 - (2) A state highway access permit from the Colorado Department of Transportation is necessary for access from the proposed construction, modification or expansion of

the arterial highway or interchange or collector highway to a state highway either within or outside the Town limits;

- (f) "*Corridor*" means any area, measured both horizontally and vertically, within which highway facilities may be located and which the applicant proposes to recommend to the Federal Highway Administration or Colorado Department of Transportation for approval under the corridor location phase of highway development.
- (g) "*Impact area*" means that area within the corporate limits of the Town which is served or potentially could be served by the highway facility, or which would be impacted in other ways, direct, indirect or cumulative, by the location of an arterial highway, interchange or collector highway.
- (h) "*Interchange*" means the intersection of two or more highways, roads, or streets at least one of which is an arterial highway. At such intersection there must be direct access to and from the arterial highway.
- (i) "*Limited-access highway*" means a highway which gives preference to through traffic by providing access connection with selected roads only. A highway may be considered a "limited access highway" even though it has some crossings at grade and private driveway connections.
- (j) "*Locate*" as used in this Article V is synonymous with "select a site" for, or "site selection" of an arterial highway or interchange or collector highway.
- (k) "*Non-conforming use*" means a use in existence at the time of the adoption of these Regulations which use, were it a new use, would be one for which a permit would be required under these Regulations.
- (l) "*Rapid transit*" means the element of a mass transit system involving a mechanical conveyance on an exclusive land or guideway constructed solely for that purpose.
- (m) "*Site selection*" means the determination, through a corridor location study, memorandum, letter determination or other document, of a specific corridor or facility location in which:
 - (1) Construction of an arterial highway or interchange or collector highway is proposed; or
 - (2) Expansion or modification of an existing arterial highway, interchange or collector highway is proposed that would result in:
 - a. an increase in highway capacity by at least one lane through widening or alternative lane configurations, or an equivalent increase in capacity produced by access controls, technological or other types of highway improvements; or
 - b. the elimination of direct, at grade access from a public road or street within the Town to such existing arterial or collector highway; or
 - c. the addition of parking, stopping, maintenance, or other facilities, including rest areas, scenic viewpoints, and chain-up stations, for highway

users adjacent to, near, or accessible from an existing arterial or collector highway.

- (3) Expansion or modification of an existing highway is proposed which would result in a change in classification to "collector highway" or "arterial highway" as defined in these Regulations.

Sec. 6-60 Authority.

These regulations and the guidelines and requirements contained in this Article are adopted in furtherance of the authority set forth in Title 24, Article 65.1 of the Colorado Revised Statutes and under the authority cited in Section 1-30, above. To the extent that this Article VI contains requirements that are more stringent than the requirements of the criteria listed in C.R.S. 24-65.1-204, reference is made to the authority set forth in C.R.S. 24-65.1-402(3).

Sec. 6-70 Relationship to other regulations.

- (a) Nothing in this Article VI shall be construed as exempting an applicant for a permit under this Article VI from any other obligations or requirements of the Town or other state or federal laws and regulations. In no event shall the approval of a permit under this Article VI be considered a representation by the Town, its staff members or consultants or the Town Council members that the proposed construction, modification or expansion complies generally with such federal, state or local guidelines and regulations, nor shall such approval otherwise give rise to any claim against the Town, its staff members or consultants or Town Council members related to the failure of an applicant to comply therewith.
- (b) To the extent that the requirements of these Regulations differ from any other applicable requirements, the more restrictive requirements shall apply.

Sec. 6-80. Permit procedure.

- (a) The procedures and requirements set forth in Article III of these Regulations and in this Article VI shall govern applications for permits to engage in the site selection of arterial highways, interchanges and collector highways. The provisions of this Article VI shall control in the event of any conflict or inconsistency between the provisions of Article III and this Article VI.
- (b) Any person subject to the requirements of this Article VI shall submit its application for a permit under this Article VI within sixty (60) days after final adjudication of the FONSI determination.

Sec. 6-100. Submission requirements.

In addition to the requirements set forth in section 3-70 above, an application for a permit to locate or engage in the site selection of an arterial highway or interchange or collector highway shall include and be accompanied by the following documents and information.

- (a) A list of all reasonable alternative corridor locations for the proposed arterial highway or interchange or collector highway; and

- (b) For the proposed and each alternative corridor location considered, including the no action alternative, the information specified below:
- (1) A general description of the proposal, with a discussion of the advantages and disadvantages of the alternative;
 - (2) Transportation impacts. Describe what impacts the proposal will have upon transportation patterns in the Town intended to be served or affected by the proposal through the submittal of a traffic impact analysis of the proposed transportation facilities. The traffic impact analysis should include but not be limited to the following:
 - a. Identify the facilities required to support the existing and future land uses being served by the proposed transportation facility.
 - b. Furnish the traffic model data verifying consistency with the most current Colorado Department of Transportation (CDOT) Statewide Transportation Improvement Program (STIP).
 - c. Provide the existing and proposed traffic volume impacts to the adjacent road system, including local roads.
 - d. Provide the existing and future Level of Service (LOS) and capacity of the transportation facilities before and after the proposed transportation project is completed.
 - e. All transportation access information as required by the most current edition of the CDOT State Highway Access Code.
 - (3) A discussion of social, economic, and environmental impacts whose significance is uncertain. The level of analysis should be sufficient to adequately identify the impacts and appropriate mitigation measures, and address known and foreseeable public concerns;
 - (4) A location map showing the corridor and general area;
 - (5) Any corridor location proposal, study, or other documentation which includes:
 - a. type, scale and appearance of the improvement;
 - b. cost estimate, including mitigation costs; and
 - c. approximate timetable for construction and right-of-way acquisition;
 - (6) Demographic information in the impact area and within the Town, including:
 - a. estimated current population and density;
 - b. total employment, occupation types, and major employer locations;
 - c. average family income; and

- d. population projections in five-year increments over the next twenty (20) years;
- (7) The need for the proposed arterial highway or interchange or collector highway;
- (8) Major traffic generators in the impact area and the Town;
- (9) The planned level of service in relationship to projected user demand within the Town;
- (10) A map(s) and description of existing land use in the impact area within the Town in relationship to the existing circulation system and the proposed arterial highway or interchange or collector highway;
- (11) A map(s) of the impact area within the Town showing planned, proposed, or expected land use at each year of population projection provided pursuant to subparagraph (8)d. above, with and without the proposed arterial highway or interchange or collector highway;
- (12) The approximate number of users of the proposed corridor or interchange location in terms of existing Town residents, new Town residents, and non-Town residents;
- (13) Plans for promoting the use of alternative modes of transportation;
- (14) Anticipated noise levels resulting from the arterial highway or interchange or collector highway including noise levels expressed through 8-hour and 24-hour Equivalent Sound Level metrics, as well as single event noise metrics;
- (15) A description of noise abatement measures that are proposed for each alternative, including for each alternative the estimated construction costs and costs of operations and maintenance, decibel reduction effectiveness, and height, length and material-type for barriers;
- (16) A description of resulting net shade and shadow impacts, after mitigation measures;
- (17) The local air quality impacts of the proposed arterial highway or interchange or collector highway including attainment of federal and state ambient air quality standards and risks to human health and the environment posed by air pollutants including, but not limited to, nitrogen oxides (NO_x), ozone, PM-10, benzene, 1, 3-butadiene, and other fuel combustion by-products;
- (18) The impacts of the proposed arterial highway or interchange or collector highway on accessibility to and from existing public facilities, commercial and industrial facilities, and residential areas within the Town;
- (19) Any health and safety hazards, including exposure to hazardous materials, which may result from locating the proposed arterial highway or interchange or collector highway;

- (20) How the proposed arterial highway or interchange or collector highway and its impacts will conform to the Town comprehensive plan goals, objectives and policies;
- (21) How the proposed arterial highway or interchange or collector highway and its impacts will conform to any applicable state plans, goals, objectives, and policies;
- (22) The development potential that would result in the impact area and within the Town with and without the completion of the proposed arterial highway or interchange or collector highway, measured in terms of: land values, land availability, land use controls, vacancy rates, tax revenues, public expenditures, and indices of accessibility to school/education, utility service, other public and quasi-public services, local and regional amenities and employment opportunities and the demographic indices identified in subsection (8) above;
- (23) The increased demand that the potential development described in paragraph 21 above will place on the following public services within the Town: other roadways, mass transit, trail, bike paths and other transportation, housing, employment, schools, commercial services, health services, police and fire protection, solid waste disposal, water supply systems, wastewater collection and disposal systems, storm water collection and release systems, power, communications, parks, open-space and recreation, other public and quasi-public utilities, and other planned public services;
- (24) The costs and benefits to the Town resulting from the land use commitment necessitated or facilitated by the proposed the arterial highway or interchange or collector highway compared to alternative projected land uses in terms of land suitability, transportation, community services, utilities, and revenues;
- (25) Alternatives which may be utilized by the Town in planning for and controlling adjacent land use;
- (26) Local impacts of the proposed arterial highway or interchange or collector highway on water quality and water resources, including effects on floodplains and wetland values and functions;
- (27) The impact of the proposed arterial highway or interchange or collector highway on historic properties and districts or other historic resources in the Town;
- (28) The impact, including but not limited to the impact on property values and other economic indicators, of the proposed arterial highway or interchange or collector highway on sensitive, key commercial tourist or visitor areas or districts within the Town and the region;
- (29) Impacts of the proposed arterial highway or interchange or collector highway on wildlife and fisheries, sensitive, endangered or threatened species and scenic, parks, recreational, archeological, paleontological, or other natural resources, including, but not limited to, the mountain backdrop;

- (30) Impacts of the proposed arterial highway or interchange or collector highway on the character of adjacent or nearby neighborhoods or development, as well as the impacts of increased division or separation of neighborhoods caused by the proposed arterial highway or interchange or collector highway;
- (31) All feasible alternatives for mitigating adverse effects of the proposed arterial highway or interchange or collector highway described above including, but not limited to, effects on the level of public services, access to public services, division of existing communities, water quality, air quality, noise levels, and scenic, historical, recreational, archeological or natural resources. Mitigation alternatives to be considered include, but are not limited to:
 - a. alternative locations, configurations, and access for the highway or interchange, including, but not limited to, grade separated interchanges and complete or partial construction below grade with cover and landscaping suitable for recreational use or for construction of Town streets, bike paths or pedestrian walkways;
 - b. alternative pavement types;
 - c. alternative highway maintenance and snow removal methods;
 - d. sound walls and other sound mitigating structures, such as transparent noise barriers;
 - e. berms;
 - f. landscaping;
 - g. speed limits;
 - h. speed control devices;
 - i. limits on the use of compression brakes; and
 - j. wildlife crossings and pedestrian bridges.

Sec. 6-110. Waiver of submission requirements.

- (a) The Town Manager may waive any part but not all of the submission requirements imposed by Article III or section 6-100 upon written petition of the applicant. In considering the requested waiver, the Town Manager shall consider:
 - (1) The scope of the site selection proposal.
 - (2) Whether providing the information requested to be waived would be unduly burdensome to the applicant.
 - (3) Whether, without the information requested to be waived, the application contains sufficient information to allow the Town Council to reach a decision on all criteria necessary to issue a permit.

- (b) Submission requirements set out in subsections (b) and (c) of section 6-100 may be satisfied in whole or in part by submission of an environmental assessment or a draft or final environmental impact statement if (i) such assessment or statement is required for compliance with the National Environmental Policy Act or Federal Highway Administration regulations; (ii) the Town Manager determines that such assessment or statement provides substantially the same information required under subsections (b) and (c) of section 6-100; and (iii) such assessment or statement uses appropriate data and methodologies to allow adequate review of the permit application under these regulations.
- (c) Any waiver granted by the Town Manager shall not preclude the Town Council from requiring the submission of any additional information or materials related to the site selection proposal.

Sec. 6-120. Approval criteria.

The Town Council shall approve an application for a permit to locate an arterial highway or interchange or collector highway in the Town only if the proposed **location** complies with this Article VI, other relevant federal, state, and local guidelines and regulations, and meets all the following requirements and criteria:

- (a) All of the provisions of the permit application procedure have been complied with;
- (b) The proposed arterial highway or interchange or collector highway will be located so that community traffic needs are met;
- (c) The proposed arterial highway or interchange or collector highway will be located only in a corridor for which a clear and reasonable local and regional need for such highway facilities has been demonstrated;
- (d) Reasonable alternative modes of transportation will be incorporated into the highway proposal;
- (e) Desirable local and regional community land use patterns will not be disrupted by the location of the proposed arterial highway or interchange or collector highway;
- (f) The location of the proposed arterial highway or interchange or collector highway will not impede the delivery of essential community services and goods;
- (g) The location and access limitations for the arterial highway or interchange or collector highway will not isolate community neighborhoods from, and, where practicable, will enhance access from community neighborhoods to public facilities including the downtown area, schools, hospitals, mass transit, pedestrian walkways, and bikeways, recreational areas and open spaces;
- (h) The location and access limitations for the arterial highway or interchange or collector highway will not restrict access via other roadways, mass transit facilities, pedestrian walkways, and bikeways to the downtown area local commercial services, business, and employment centers, and public facilities including schools, hospitals, recreational areas and open spaces;

- (i) The location and access limitations for the arterial highway or interchange or collector highway will not create safety hazards to motorists, pedestrians, or bicyclists by causing or contributing to overuse, improper use, or congestion, or cause unnecessary diversion of regional traffic onto other Town roadways or inappropriate or inadequate connections to pedestrian and bicycle routes;
- (j) The location of the arterial highway or interchange or collector highways will not directly conflict with applicable local, regional, and state master plans, including, but not limited to transportation plans;
- (k) The proposed arterial highway or interchange or collector highway will be located and implemented in accordance with the comprehensive plan;
- (l) The location of the proposed arterial highway or interchange or collector highway will not contribute to the expansion of demand for public services beyond the reasonable capacity of the Town or the region to provide such services;
- (m) The location of the proposed arterial highway or interchange or collector highway will not contribute to the expansion of regional or local demand for public utilities beyond the reasonable capacity of the utility companies or authorities to provide such services;
- (n) The proposed arterial highway or interchange or collector highway will be located so as to complement the compact and efficient extension of planned public services, utilities, and development in general, both regionally and within the Town;
- (o) The site selection for the arterial highway or interchange or collector highway will adhere to the plan, process, procedure, and requirements of the State of Colorado and the Federal Highway Administration and such construction, expansion, or modification will be included in any then-current regional transportation plan;
- (p) The benefits to the Town of the proposed arterial highway or interchange or collector highway, including expected development in the regional and local impact areas, will outweigh the social, fiscal, and environmental impact and the loss of any scenic, historical, archeological, or natural resources or agricultural lands rendered unavailable as a result of the location of the proposed construction, expansion, or modification of the arterial highway or interchange or collector highway;
- (q) The proposed location of the arterial highway or interchange or collector highway will not increase water pollution levels in violation of applicable federal, state, and local water quality control standards and will result in no net loss of wetland values and functions;
- (r) The maximum anticipated use over the next twenty (20) years of the arterial highway or interchange or collector highway will not increase air pollution levels beyond applicable federal or state ambient air standards or to levels that pose unacceptable risks to human health and the environment, and will conform to the vehicle emissions budget of the State Implementation Plan for Colorado;
- (s) Noise levels caused by the arterial highway or interchange or collector highway will not exceed 55 decibels as measured by a 24-hour Equivalent Sound Level metric at the property line of any residence, school, church, or other noise-sensitive location nearest to

the proposed arterial highway or interchange or collector highway, unless the Town Council determines that meeting such sound level is infeasible, that all feasible avoidance or mitigation measures will be incorporated, and the public benefit of any new or modified arterial highway or interchange or collector highway necessitates the proposed construction, expansion or modification of the arterial highway or interchange or collector highway.

- (t) The proposed location of the arterial highway or interchange or collector highway will not result in the destruction, impairment, or significant alteration of historic properties or districts within the Town and will not impair the function or historic integrity of a historical resource of statewide importance;
- (u) The proposed location of the arterial highway or interchange or collector highway will not result in the destruction, impairment, or significant alteration of sensitive, key commercial, tourist or visitor areas or districts within the Town;
- (v) The proposed location of the arterial highway or interchange or collector highway will not contribute to a negative economic impact to commercial, tourist or visitor areas or districts within the Town;
- (w) The proposed location of the arterial highway or interchange or collector highway will not significantly or unnecessarily detract from the mountain backdrop or other significant scenic resources within the Town or the region;
- (x) The proposed arterial highway or interchange or collector highway will be designed to avoid or minimize visual impacts, including views of the highway or interchange from residential areas and designated historic districts in the Town, and to blend into the surroundings, yet will allow the Town to be seen from the highway. Interchanges will be attractively landscaped and will identify major gateways to the Town consistent with the comprehensive plan; and
- (y) If the proposed arterial highway or interchange or collector highway includes the imposition of tolls, any existing state roads which have historically provided free access within the Town limits will continue to provide free and non-tolled access; and
- (z) The proposed arterial highway or interchange or collector highway will not result in a design speed greater than fifty-five (55) miles per hour, unless the Town Council finds that achieving such design speed is infeasible and all feasible mitigation of the adverse effects of higher speeds (including, without limitation, noise levels, air quality and safety) will be incorporated, and the public benefit of any new or modified arterial highway or interchange or collector highway necessitates the proposed construction, expansion or modification of the arterial highway or interchange or collector highway.
- (aa) The applicant has adequately evaluated and considered reasonable siting and design alternatives within the Town and within three (3) miles of the boundaries of the Town and established why such alternatives are not available, not reasonably feasible, or would present greater adverse impacts to the Town. Increased cost or expense for the siting and design of an alternative shall not, by itself, render an alternative unavailable or not feasible unless the applicant establishes that such increase in cost or expense is unduly excessive in comparison to the proposed arterial highway or interchange or collector highway and to

the cost or expense of other similar completed projects in terms of scope, size, or extent, as adjusted for inflation.

- (bb) The proposed arterial highway or interchange or collector highway will not unreasonably, significantly, or substantially decrease the fair market value of private property located within 1000 feet of the outermost boundaries of the proposed arterial highway or interchange or collector highway.

Sec. 6-130. Denial of permit application.

The Town Council shall deny the permit if the proposed location of arterial highway or interchange or collector highway does not meet all of the criteria set out in section 6-130 above.

Sec. 6-140. Supplemental enforcement remedy.

In addition the to any other remedies available to the Town, the Town shall be entitled to injunctive and other relief to enjoin or restrain any person who has not obtained a permit under this Article VI from constructing, installing or locating any facilities or improvements of any kind associated with an arterial highway or interchange or collector highway on any site selected for such facilities or improvements without or in violation of the terms of any permit required pursuant to this Article VI.

Article VII

Site selection and construction of major new domestic water and sewage treatment systems, and major extensions of such systems

Sec. 7-10 Designation.

The Town Council, having considered the intensity of current and foreseeable development pressures and applicable guidelines for identification and designation, as well as the other relevant factors set forth in Section 22-2-50, above, at a duly noticed public hearing held in accordance with Part IV of Article 65.1, Title 24, C.R.S., does hereby find and declare the site selection and construction of all major new domestic water and sewage treatment systems, and major extensions of such systems to be a matter of state interest and does hereby adopt the accompanying regulations requiring permits for this activity as set forth in this Article VII. The conduct of this activity within the boundaries of the Town shall be subject to this designation.

Sec. 7-20 Applicability.

- (a) These Regulations shall apply to the site selection of all major new domestic water and sewage treatment systems, and major extensions of such systems within the Town.
- (b) Any person seeking to select a site for all major new domestic water and sewage treatment systems, and major extensions of such systems in the Town shall obtain a permit pursuant to these regulations. The permit shall be effective only for the period of time specified by the permit.

Sec. 7-30 Purpose and intent.

The specific purpose and intent of this Article shall be to:

- (a) To ensure that site selection and construction of major new domestic water and sewage treatment systems and major extensions of such systems are conducted in such a manner as to fully mitigate significant impacts associated with such development;
- (b) To ensure that site selection and construction of major new domestic water and sewage treatment systems and major extensions of such systems are planned and developed in a manner so as not to impose an undue economic burden on existing or proposed communities within the Town; and
- (c) To ensure that the surface and groundwater resources of the Town are protected from any significant impact of the development of major water and sewage treatment systems and major extensions of such systems.

Sec. 7-40 Authority.

These regulations and the guidelines and requirements contained in this Article are adopted in furtherance of the authority set forth in Title 24, Article 65.1 of the Colorado Revised Statutes and under the authority cited in Section 1-30, above. To the extent that this Article VII contains requirements that are more stringent than the requirements of the criteria listed in C.R.S. 24-65.1-204, reference is made to the authority set forth in C.R.S. 24-65.1-402(3).

Sec. 7-50 Relationship to other regulations.

- (a) Nothing in this Article VII shall be construed as exempting an applicant for a permit under this Article VII from any other obligations or requirements of the Town or other state or federal laws and regulations. In no event shall the approval of a permit under this Article VII be considered a representation by the Town, its staff members or consultants or the Town Council members that the proposed construction, modification or expansion complies generally with such federal, state or local guidelines and regulations, nor shall such approval otherwise give rise to any claim against the Town, its staff members or consultants or Town Council members related to the failure of an applicant to comply therewith.
- (b) To the extent that the requirements of these Regulations differ from any other applicable requirements, the more restrictive requirements shall apply.

Sec. 7-60. Permit procedure.

- (a) The procedures and requirements set forth in Article III of these Regulations and in this Article VII shall govern applications for permits to engage in the site selection and construction of all major new domestic water and sewage treatment systems, and major extensions of such systems. The provisions of this Article VII shall control in the event of any conflict or inconsistency between the provisions of Article III and this Article VII.
- (b) Any person subject to the requirements of this Article VII shall submit its application for a permit under this Article VII within sixty (60) days after final adjudication of the FONSI determination.

Sec. 7-70. Waiver of submission requirements.

- (a) The Town Manager may waive any part but not all of the submission requirements imposed by Article III upon written petition of the applicant. In considering the requested waiver, the Town Manager shall consider:
 - (1) The scope of the site selection proposal.
 - (2) Whether providing the information requested to be waived would be unduly burdensome to the applicant.
 - (3) Whether, without the information requested to be waived, the application contains sufficient information to allow the Town Council to reach a decision on all criteria necessary to issue a permit.
- (b) Submission requirements set out in Article III may be satisfied in whole or in part by submission of an environmental assessment or a draft or final environmental impact statement if (i) such assessment or statement is required for compliance with the National Environmental Policy Act; (ii) the Town Manager determines that such assessment or statement provides substantially the same information required under Article III; and (iii) such assessment or statement uses appropriate data and methodologies to allow adequate review of the permit application under these regulations.

- (c) Any waiver granted by the Town Manager shall not preclude the Town Council from requiring the submission of any additional information or materials related to the site selection proposal.

Sec. 7-80. Approval criteria.

The Town Council shall approve an application for a permit to locate and construct a major new domestic water and/or sewage treatment system, and major extensions of such system(s) in the Town only if the proposed **site selection and construction** complies with these Regulations, other applicable federal, state, and local guidelines and regulations, and meets all the following guidelines and requirements:

- (a) The proposal or its associated transmission collector or distribution system will not create an undue financial burden on existing or future residents of the Town.
- (b) The proposal, if it involves a new domestic water or sewage treatment system, is being constructed in an area which will result in the proper utilization of existing treatment plants and the orderly development of domestic water and sewage treatment systems of adjacent communities.
- (c) Area and community development and population trends within the geographic context of the development plan demonstrate a need for such proposal.
- (d) The project emphasizes the most efficient use of water, including, to the extent permissible under existing law, the recycling, reuse, and conservation of water and will be consistent with any applicable water conservation plan.

Sec. 7-90. Denial of permit application.

The Town Council shall deny the permit if the proposed location does not meet all of the criteria set out in section 7-80 above.

Sec. 7-100. Supplemental enforcement remedy.

In addition to any other remedies available to the Town, the Town shall be entitled to injunctive and other relief to enjoin or restrain any person who has not obtained a permit under this Article VII from constructing, installing or locating any facilities or improvements of any kind associated with a major new domestic water and sewage treatment systems, and major extensions of such systems on any site selected for such facilities or improvements without or in violation of the terms of any permit required pursuant to this Article VII.

Article VIII
Site selection and construction of major facilities of a public utility

Sec. 8-10 Designation.

The Town Council, having considered the intensity of current and foreseeable development pressures and applicable guidelines for identification and designation, as well as the other relevant factors set forth in Section 22-2-50, above, at a duly noticed public hearing held in accordance with Part IV of Article 65.1, Title 24, C.R.S., does hereby find and declare the site selection and construction of major facilities of a public utility to be a matter of state interest and does hereby adopt the accompanying regulations requiring permits for this activity as set forth in this Article VIII. The conduct of this activity within the boundaries of the Town shall be subject to this designation.

Sec. 8-20 Applicability.

- (a) These Regulations shall apply to the site selection of all major facilities of a public utility within the Town.
- (b) Any person seeking to select a site for all major facilities of a public utility in the Town shall obtain a permit pursuant to these regulations. The permit shall be effective only for the period of time specified by the permit.

Sec. 8-30 Purpose and intent.

The specific purpose and intent of this Article shall be to:

- (a) To encourage the coordination of public utility facilities planning that are in the best interest of the residents of the Town;
- (b) To ensure that traffic noise, air, and water pollution remain at acceptable levels; and
- (c) To protect property values.

Sec. 8-40 Authority.

These regulations and the guidelines and requirements contained in this Article are adopted in furtherance of the authority set forth in Title 24, Article 65.1 of the Colorado Revised Statutes and under the authority cited in Section 1-30, above. To the extent that this Article VIII contains requirements that are more stringent than the requirements of the criteria listed in C.R.S. 24-65.1-204, reference is made to the authority set forth in C.R.S. 24-65.1-402(3).

Sec. 8-50 Relationship to other regulations.

- (a) Nothing in this Article VIII shall be construed as exempting an applicant for a permit under this Article VIII from any other obligations or requirements of the Town or other state or federal laws and regulations. In no event shall the approval of a permit under this Article VIII be considered a representation by the Town, its staff members or consultants or the Town Council members that the proposed construction, modification or expansion complies generally with such federal, state or local guidelines and regulations, nor shall such approval otherwise give rise to any claim against the Town, its staff members or

consultants or Town Council members related to the failure of an applicant to comply therewith.

- (b) To the extent that the requirements of these Regulations differ from any other applicable requirements, the more restrictive requirements shall apply.

Sec. 8-60 Definitions.

Defined terms used in this Article VI shall have the meanings set forth in section 1-80, and as set forth below:

"*Appurtenant facilities*" means any building, structure or other property which is incidental to, and customarily found in connection with, major facilities of public utilities and are operated and maintained for the benefit or convenience of the occupants, employees, customers or visitors of such major facilities.

"*Construction, modification, or expansion*" means any activity involved in constructing or reconstructing, or modifying or expanding an existing or proposed major facility of a public utility.

"*Impact area*" means that area within Town of Keystone which is served or potentially could be served by the existing or proposed major facility of a public utility.

"*Locate*" or "*location*" (as used in this Article VIII) is synonymous with selecting a site for or site selection and construction of a major facility of a public utility.

"*Pipelines*" mean any pipeline and appurtenant facilities thereto, designed for, or capable of, transporting natural gas, manufactured gas, or other petroleum derivatives of ten (10) inches or more in diameter.

"*Power plant*" means any of the following:

- (1) Any fossil fuel, biofuel, or similar electrical energy generating facility and any appurtenant facilities thereto, or any addition or series of additions thereto increasing the existing design capacity of the facility to seventy-three (73) megawatts or more.
- (2) Any solar or wind electrical energy generating facility with a generating capacity more than two (2) megawatts, and any appurtenant facilities thereto, or any addition or series of additions thereto increasing the existing design capacity of the facility in excess of two (2) megawatts. It does not include any solar or wind energy generation for on-site consumption by a consumer regardless of size.
- (3) Any nuclear or hydropower electrical generating facility.

"*Public utility*" means a public utility or power authority as those entities are defined by state law, and any local governments, cooperative, or other entity that owns and operates a power plant, electrical transmission lines, or natural gas for delivery to off-site consumers.

"*Site selection*" means the identification of a specific location located entirely or partially within the Town of Keystone in which:

- (1) Construction of a new major facility of a public utility is proposed; or

- (2) Expansion or modification of an existing major facility of a public utility would result in increased pole height, reactivation of a deactivated facility, or increase in transmission capacity (e.g., moving from 115 kilovolt to 230 kilovolt).

"*Storage area*" means any facility, including appurtenant facilities, designed to store eighty million (80,000,000) cubic feet or more of natural or manufactured gas, or thirty-five thousand (35,000) barrels or more of petroleum derivatives, or any expansion or series of expansions of an existing storage facility to accommodate eighty million (80,000,000) cubic feet or more of natural or manufactured gas, or thirty-five thousand (35,000) barrels or more of petroleum derivatives.

"*Substation*" means any facility designed to provide switching, voltage transmission, or voltage control required for the transmission of electricity at one hundred fifteen (115) kilovolts or more but does not have as a primary purpose the transformation of voltage to fifty (50) kilovolts or less for distribution purposes.

"*Transmission lines*" mean any electric transmission line and appurtenant facilities, which transmit electricity at one hundred fifteen (115) kilovolts or more.

Sec. 8-70. Permit procedure.

- (a) The procedures and requirements set forth in Article III of these Regulations and in this Article VIII shall govern applications for permits to engage in the site selection and construction of major facilities of a public utility. The provisions of this Article VIII shall control in the event of any conflict or inconsistency between the provisions of Article III and this Article VIII.
- (b) Any person subject to the requirements of this Article VIII shall submit its application for a permit under this Article VIII within sixty (60) days after final adjudication of the FONSI determination.

Sec. 8-80 Submission requirements.

In addition to the requirements set forth in section 3-70 above, an application for a permit to locate or engage in the site selection and construction of a major facility of a public utility shall contain the items listed below to be considered complete:

- (a) A sketch or map showing the following:
 - (1) If a power plant is proposed, the area is within 10 miles from the site.
 - (2) For transmission lines or pipelines, provide a map showing all existing transmission lines or pipelines for a distance of two miles beyond any reasonable alternative studied.
- (b) For upgrades of existing transmission lines, provide a sketch showing all existing transmission lines and pipelines within one mile on either side of the proposed alignment
- (c) For all other major facilities of a public utility, provide a sketch showing the area within five miles of the site if another major facility is proposed.
- (d) Type of facility - specify where applicable.

- (1) The voltages and lengths of transmission lines.
 - (2) Power source and generating capacity.
 - (3) The functions and sizes of substations.
 - (4) For pipeline projects, the diameters and lengths of pipeline.
 - (5) The capacities of the storage tanks and types of petroleum derivative to be stored.
 - (6) Corridor locations.
 - (7) Service area.
 - (8) Resource area (e.g., source of power being generated or transmitted, source of petroleum derivative being transported).
 - (9) Describe applicable support facilities (e.g., pollution control, parking areas, landscaping, etc.) to be provided.
- (e) Analysis of nonstructural alternatives to the project such as conservation of energy use, no development or management (different scheduling, conservation programs, facility design, land trades, etc.), if applicable.
- (f) Analysis of reasonable structural alternatives to the project such as alternate locations and routes, alternative types of facilities, use of existing rights-of-way, joint use of rights-of-way with other utilities and upgrading of existing facilities.

Sec. 8-90. Waiver of submission requirements.

- (a) The Town Manager may waive any part but not all of the submission requirements imposed by Article III or 7-80 upon written petition of the applicant. In considering the requested waiver, the Town Manager shall consider:
- (1) The scope of the site selection proposal.
 - (2) Whether providing the information requested to be waived would be unduly burdensome to the applicant.
 - (3) Whether, without the information requested to be waived, the application contains sufficient information to allow the Town Council to reach a decision on all criteria necessary to issue a permit.
- (b) Submission requirements set out in Article III or 7-80 may be satisfied in whole or in part by submission of an environmental assessment or a draft or final environmental impact statement if (i) such assessment or statement is required for compliance with the National Environmental Policy Act; (ii) the Town Manager determines that such assessment or statement provides substantially the same information required under Article III or 7-80; and (iii) such assessment or statement uses appropriate data and methodologies to allow adequate review of the permit application under these regulations.

- (c) Any waiver granted by the Town Manager shall not preclude the Town Council from requiring the submission of any additional information or materials related to the site selection proposal.

Sec. 8-100. Approval criteria.

The Town Council shall approve an application for a permit for the site selection and construction of a major facility of a public utility in the Town only if the proposed construction, modification, or expansion complies with these Regulations, other applicable federal, state, and local guidelines and regulations, and meets all the following guidelines and requirements:

- (a) If for a power plant project, the proposed natural gas and electric transmission facilities have been identified and included.
- (b) The facility site or expansion area is not in an area with general meteorological and climatological conditions which would unreasonably interfere with or obstruct normal operations and maintenance.
- (c) The nature and location of the facility or expansion will not unduly interfere with existing easements, rights-of-way, other utilities, canals, mineral claims, or roads
- (d) Where feasible, the nature and location of the facility or expansion avoids direct conflict with adopted local government, regional, and state master plans
- (e) Adequate electric, gas, telephone, water, sewage, and other utilities exist or shall be developed to service the site.
- (f) The scope and nature of the proposed project will not unnecessarily duplicate existing services within the City
- (g) Area and community development and population trends within the geographic context of the development plan demonstrate a need for such proposal.
- (h) The siting and design of the proposed location for electrical transmission lines addresses potential levels of electrical and magnetic fields (EMFs) through reasonable efforts or by exercising "prudent avoidance" to limit exposure.
- (i) Wind power plants must meet the following standards:
 - (1) All towers must be set back at least 750 feet from property lines and public rights-of-way.
 - (2) The wind generator turbines and towers must be painted or coated a nonreflective white, grey, or other neutral color.
 - (3) Facilities must not be artificially illuminated unless required by the FAA.
 - (4) Electrical controls must be wireless or underground and power lines must be underground except where the electrical collector wiring is brought together for connection to the transmission or distribution network, adjacent to that network

- (5) Towers for wind generators must be constructed of a tubular design and include anti-climb features
- (6) The facility design must use best practices available to protect wildlife.

Sec. 8-110. Denial of permit application.

The Town Council shall deny the permit if the proposed location does not meet all of the criteria set out in section 7-100 above.

Sec. 8-120. Supplemental enforcement remedy.

In addition to any other remedies available to the Town, the Town shall be entitled to injunctive and other relief to enjoin or restrain any person who has not obtained a permit under this Article VIII from constructing, installing or locating any facilities or improvements of any kind associated with a major facility of a public utility on any site selected for such facilities or improvements without or in violation of the terms of any permit required pursuant to this Article VIII.

TOWN OF KEYSTONE, COLORADO

STAFF REPORT

TO: Mayor & Town Councilmembers
THROUGH: John Crone, Town Manager
FROM: Jennifer Madsen, Town Attorney
DATE: November 12, 2024 – Council Meeting
SUBJECT: Resolution 2024-68, A Resolution of Town Council of the
Town of Keystone, Colorado, Approving Amended Town
Council Bylaws

Executive Summary:

Town Council has discussed revising the bylaws related to attendance at meetings and absences. These discussions occurred at the August 27, September 10 and 24, and October 8 meetings. At the October 8 and October 22 meetings, Town Council provided direction related to revisions to the Town Council bylaws.

Resolution 2024-68 approves the amended Town Council Bylaws.

Background:

Town Council adopted bylaws on April 9, 2024. At the October 8 meeting, Town Council provided direction on the changes to the bylaws. These changes were discussed at the October 22 work session. The following bullet points summarize the discussion from the October 8 meeting, along with the revised bylaw language.

- For the Regularly Scheduled and Calendared Town Council meetings

This revision is address in Section 2.8.e.4:

The Presiding Officer shall excuse an absence of the Mayor or Councilmember from a special meeting if the absence is due to a commitment or conflict scheduled prior to the scheduling of the date of the special meeting and which absence the Mayor or Councilmember was unable to reschedule.

- Illness, family emergencies or unanticipated and uncontrollable absences are excused

This revision is address in Section 2.8.e.1:

1. The Presiding Officer shall excuse an absence of the Mayor or any Councilmember from all or any portion of a meeting where:

- (i) The Mayor or Councilmember contacted the Mayor, Town Manager, or Town Clerk in advance of the meeting regarding the reason for the absence; and*
- (ii) The reason for the absence is due to circumstances that were unforeseeable or unavoidable, such as but not limited to illness, family emergency, or work emergency. An excuse shall not be granted where the Mayor or Councilmember's absence is due to the person's desire to attend other meetings or functions unless the person's attendance at the meeting or function was: (i) requested or directed by the Town Council; or (ii) undertaken in the Councilmember's appointed role as Town Council representative to a board, commission, or body.*

- All other absences cannot exceed 4. That includes 2 excused absences for any reason as well as 2 additional "unexcused" absences prior to invoking Article III, section 3.1. The Councilmember shall inform Council in advance of these absences.

This revision is address in Section 2.8.e.3:

3. The Presiding Officer shall excuse up to two (2) absences of the Mayor or any Councilmember from all or any portion of a meeting for any reason. If advance notice is provided, an excused absence may be ratified by Town Council on the consent agenda.

- Council members are encouraged to participate virtually in all sessions, whether excused or not and members will be allowed to discuss and vote on all matters.

This revision is address in Section 2.8.d:

d. Members of Town Council that are absent from a meeting are encouraged to electronically participate in the meeting subject to the requirements of an electronic participation policy. Members of Town Council, who are participating electronically, are not permitted to participate or vote on quasi-judicial matters.

- The one exception to this rule is for **quasi-judicial sessions** where the council member can join virtually, but not be allowed to participate

This revision is address in Section 2.8.d:

d. Members of the Town Council who are absent from a meeting are encouraged to participate electronically, in accordance with the electronic participation policy. However, members participating electronically are not allowed to engage in or vote on quasi-judicial matters. The Mayor shall strive to ensure that no more than three members of the Town Council participate electronically at any given time.

- For **executive sessions**, council members can participate virtually as long as they can attest that no unauthorized individuals can hear.

This will be addressed in the electronic meeting policy.

- The Mayor shall work to ensure that no more than 3 members are remote at any time.

This revision is addressed in Section 2.8.d:

d. Members of the Town Council who are absent from a meeting are encouraged to participate electronically, in accordance with the electronic participation policy. However, members participating electronically are not allowed to engage in or vote on quasi-judicial matters. The Mayor shall strive to ensure that no more than three members of the Town Council participate electronically at any given time.

Alternatives:

Town Council could provide direction related to the amendments to the bylaws.

Financial Consideration:

There is no financial impact of the amended bylaws.

Previous Council Actions:

Discussions of bylaws revisions occurred at the August 27, September 10 and 24, and October 8 and 22 work sessions.

Next Steps:

If approved, the amended bylaws will be effective immediately.

Suggested Motions:

APPROVE:

I move to APPROVE Resolution 2024-68, A Resolution Of Town Council Of The Town Of Keystone, Colorado Approving Amended Town Council Bylaws

DENY:

I move to DENY Resolution 2024-68, A Resolution Of Town Council Of The Town Of Keystone, Colorado Approving Amended Town Council Bylaws

Attachments:

- Resolution 2024-68, A Resolution Of Town Council Of The Town Of Keystone, Colorado Approving Amended Town Council Bylaws
- Amended Bylaws dated November 12, 2024

**TOWN OF KEYSTONE
Summit County, Colorado**

RESOLUTION 2024-68

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO
APPROVING AMENDED TOWN COUNCIL BYLAWS**

WHEREAS, the Town of Keystone (“Town”) is a home rule municipality governed by the Keystone Home Rule Charter; and

WHEREAS, the Town of Keystone is authorized to adopted procedures to govern the conduct of meetings and the conduct of public business; and

WHEREAS, on April 9, 2024, the Town Council approved Town Council Bylaws; and

WHEREAS, Town Council desires to amend the bylaws to address excused and unexcused absences; and

WHEREAS, Town Council desires to approve amended Town Council Bylaws.

Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:

Section 1. The Town Council of the Town of Keystone hereby adopted the Town Council Bylaws dated April 9, 2024, to govern the conduct of meetings and the conduct of public business. Town Council approves amended Town Council bylaws dated October 22, 2024.

Section 2. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

ADOPTED by a vote of __ in favor and __ against, this _____ day of _____, 2024.

By: _____
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: _____
Town Clerk

By: _____
Town Attorney

TOWN OF KEYSTONE, COLORADO

TOWN COUNCIL BYLAWS

DATE OF POLICY/REVISIONS:	Original Enactment: April 9, 2024, Resolution No. 2024-32; amended on November 12, 2024, Resolution No. 2024-70
SCHEDULED REVIEW AND REVISION:	As deemed necessary or desired by the Town Council or upon recommendation of the Town Manager or Town Attorney.
ATTACHMENT(S):	None
AUTHORITY/REFERENCE(S):	Keystone Charter, Section 3.8. Titles 29 and 31, C.R.S., and the Colorado Open Meetings Law, C.R.S. §§ 24-6-401 <i>et seq.</i>, as interpreted by the Colorado appellate courts.

TOWN COUNCIL BYLAWS

These Bylaws are intended to direct and assist the Town Council for the Town of Keystone, Colorado, in the conduct of meetings and the conduct of public business. These Bylaws and Procedures shall be interpreted consistently with the Keystone Home Rule Charter (“Charter”) and, in the event of a conflict between these Bylaws and Procedures and the Charter, the Charter shall govern and control.

References to “Councilmember,” “Councilmembers,” or “Town Council” shall include the Mayor unless the context provides otherwise.

I. **Legislative Body & Officers.**

1.1 Town Council

The Town Council is the legislative and governing body of the Town.

1.2 Mayor – Presiding Officer

The Mayor shall be the Presiding Officer at all meetings of the Town Council. The Mayor is a member of the Town Council. The role of Presiding Officer may be assigned to another member of the Town Council in accordance with the Rules of Order.

1.3 Mayor Pro Tem

The Town Council shall elect one of its members to serve as Mayor Pro Tem in accordance with the Keystone Home Rule Charter. The process for nomination and election of the Mayor Pro Tem shall be determined by the Town Council which process may be established by Resolution.

1.4 Temporary Chair

- a. In the event of the absence, conflict of interest, or disability of both the Mayor and Mayor Pro Tem that would prevent them from attending any meeting of the Town Council, the Town Clerk shall call such meeting to order and shall call the roll. The Town Council shall then proceed to elect, by a majority vote of those present, a Councilmember to serve as the Temporary Chairperson for the meeting.
- b. The Temporary Chairperson shall serve as Presiding Officer until the arrival or the resolution of the conflict of interest of the Mayor or Mayor Pro Tem at which time the Temporary Chair shall relinquish the chair upon conclusion of the agenda item or other business then before the Town Council.

II. **Town Council Meetings.**

2.1 Regular Meetings

- a. The Town Council shall meet regularly at least once each month at a day and hour and place to be fixed by the Rules of Order of each Town Council adopted by Resolution. The intent is that the Town Council will conduct in person meetings, unless circumstances necessitate another form of meeting. The procedures for in person meetings and the circumstances necessitating another form of meeting shall be defined by the Rules of Order of the Town Council. (Charter § 3.1)
- b. For ease of administration, an approved schedule of meeting dates, times, and places for regular meetings may be administratively considered and approved for each calendar year by the Town Council. The Town Council reserves the authority to modify or adjust any previously approved meeting schedule or to change meeting days or times as may be needed for convenience or to accommodate holidays, anticipated lack of quorum, and other events or circumstances.
- c. When a regular meeting must be cancelled due to unforeseen or unanticipated circumstances, such as but not limited to emergency, adverse weather conditions, absence of quorum, or failure to post any required public notice, the Mayor, or the Mayor Pro Tem in the Mayor's absence, is authorized to instruct staff to cancel the regular meeting and the Mayor may reschedule the meeting to another date and time. The Town Clerk shall prepare a notice of the meeting cancellation and the rescheduled meeting and shall cause the notice to be delivered through reasonable and customary means, including by posting notice on public entry doors of the Keystone Center and posting on the Town's Website.

2.2 Special Meetings

- a. Special meetings of the Town Council shall be called by the Town Clerk on the oral request of two (2) or more members of Town Council with at least twenty-four (24) hours' notice to each member of the Town Council and to the public, delivered in accordance with the Rules of Order of the Town Council and the requirements of this Charter and the Colorado Open Meetings Law. (Charter § 3.2)
- b. No business shall be conducted at a special meeting of the Town Council unless the business has been stated in the notice of such meeting; except that any business which may lawfully come before a regular meeting of the Town Council may be transacted at a special meeting if all members of the Town Council present consent thereto and all the Councilmembers absent file their written consent.
- c. Executive sessions may be held during any properly convened special meeting.

2.3 Emergency Meetings

- a. Emergency meetings of the Town Council shall be called by the Town Clerk on the oral request of two (2) or more members of Town Council with less than twenty-four (24) hours' notice. An emergency meeting may be called in the event of an immediate danger or threat to the public health, welfare, peace, safety or property for the purpose of preservation or protection of the public health, welfare, peace, safety or property. Unless it is impractical, all members of the Town Council shall be notified of such meeting and such meeting may be held if a Quorum consents. Maximum practical notice, including posted notice, shall be given to the public stating the purpose, time, place and manner of any such meeting. (Charter § 3.3)
- b. Any business which may lawfully come before a regular meeting of the Town Council may be transacted at an emergency meeting.
- c. Due to the emergency nature of the meeting, no Quorum of the Town Council is required although a Quorum is strongly desired wherever practicable. Where a Quorum does not attend the emergency meeting, the action of the Town Council at the emergency meeting will need to be ratified by the Town Council at the next meeting at which a Quorum is in attendance.

2.4 Study or Work Sessions

- a. The Town Council may hold study or work sessions as deemed necessary or desirable. Study or work sessions shall be called in the same manner as a Special Meeting or called by the Town Manager in consultation with the Town Clerk.
- b. No legally binding or formal action shall be taken at any such session. The Council may provide general administrative direction to the Town Manager by simple concurrence or consensus of the members of the Town Council.
- c. A study or work session shall *customarily* be limited to the presentation of information to the Town Council and to Town Council's discussion of such information. Public comment upon matters under study or discussion shall not be typically entertained except upon concurrence of the Council members in attendance. No Quorum shall be required at any study or work session.
- d. Executive sessions shall not be conducted during a study or work session.

2.5 Quorum

Where a quorum is required by these Bylaws, a majority of the members of the Town Council in office shall constitute a quorum for the transaction of business at all Town Council meetings. In the absence of members for a quorum for a regular meeting, a

meeting may be rescheduled to a later date and time as permitted by Town Council's adopted Rules of Order.

2.6 Meetings to be Public

All meetings of the Town Council shall be open to the public except as permitted by law. At Town Council meetings, members of the public shall have a reasonable opportunity to be heard except for those meetings that are designated as study or work sessions. In compliance with the Colorado Open Meetings Law, the Town Clerk shall keep a record of the proceedings of each meeting. The intent is that, when feasible, Town Council will allow for a remote meeting option for the public's attendance and participation at open meetings. (Charter § 3.5) The Town Council may adopt a remote meeting policy to further define the public's attendance and participation through the remote meeting option.

2.7 Meeting Notice

The Town Council shall adopt a Resolution that establishes public notice and posting requirements in accordance with the Colorado Open Meetings Law including designating the Town official site for posting the agenda at least 24 hours in advance of the public meeting (except for emergency meetings as governed by Charter § 3.3) and such designation shall be deemed automatically readopted at the Town Council's first regular meeting of each calendar year unless otherwise determined by the Town Council. (Charter § 3.10)

2.8 Town Council Attendance and Absences

- a. All Town Councilmembers are expected to attend all regular, special, work and study session meetings unless excused from attendance in accordance with this section. Councilmembers are expected to attend Town Council meetings in person unless a different form of attendance is authorized or in person attendance is excused. (Charter § 3.9)
- b. Three (3) or more unexcused absences by a member of the Town Council in any one (1) calendar year shall constitute grounds for sanctions or removal.
- c. If a Councilmember is absent for both a work or study session on the same date, that absence is only counted as one and not two absences.
- d. Members of the Town Council who are absent from a meeting are encouraged to participate electronically, in accordance with the electronic participation policy. However, members participating electronically are not allowed to engage in or vote on quasi-judicial matters. The Mayor shall strive to ensure that no more than three members of the Town Council participate electronically at any given time.

e. Excused Absences.

1. The Presiding Officer shall excuse an absence of the Mayor or any Councilmember from all or any portion of a meeting where:
 - (i) The Mayor or Councilmember contacted the Mayor, Town Manager, or Town Clerk *in advance* of the meeting regarding the reason for the absence; *and*
 - (ii) The reason for the absence is due to circumstances that were unforeseeable or unavoidable, such as but not limited to illness, family emergency, or work emergency. An excuse shall not be granted where the Mayor or Councilmember's absence is due to the person's desire to attend other meetings or functions unless the person's attendance at the meeting or function was: (i) requested or directed by the Town Council; or (ii) undertaken in the Councilmember's appointed role as Town Council representative to a board, commission, or body.
2. The Presiding Officer may excuse an absence of any Councilmember from a meeting or a portion of a meeting *subsequent to* the meeting where:
 - (i) The Councilmember's requested excuse was due to circumstances that were unforeseeable or unavoidable, such as but not limited to, accident, emergency, illness, or last-minute familial obligations; and
 - (ii) The circumstances surrounding the excuse did not permit the Councilmember to timely contact the Mayor, Town Manager, or Town Clerk prior to the meeting as provided by paragraph (B) above.
3. The Presiding Officer shall excuse up to two (2) absences of the Mayor or any Councilmember from all or any portion of a meeting for any reason. If advance notice is provided, an excused absence may be ratified by Town Council on the consent agenda.
4. The Presiding Officer shall excuse an absence of the Mayor or Councilmember from a special meeting if the absence is due to a commitment or conflict scheduled prior to the scheduling of the date of the special meeting and which absence the Mayor or Councilmember was unable to reschedule.
5. The Presiding Officer's decision regarding the recognition or denial of any absence shall be subject to appeal as provided by the Rules of Order.

2.9 Town Attorney

Unless otherwise excused by the Town Council, the Town Attorney or the Town Attorney's designated representative is expected to attend all regular, special, or emergency meetings of the Town Council and attend such other meetings and sessions of the Town Council as the Town Council may request. The Town Attorney may attend meetings by a remote meeting option.

2.10 Town Clerk, Written Minutes, and Official Record

- a. The Town Clerk, or the Town Clerk's designated representative, shall attend and shall keep written minutes of each regular or special meeting of the Town Council. Written meeting minutes may be a brief and concise summary or synopsis of actions taken by the Town Council, the titles of ordinances and resolutions considered, votes taken, and other action items and general topics of discussion. Meeting minutes need not record what was said during the meeting.
- b. The minutes shall record how each Councilmember voted on each question, except that where the vote was unanimous it shall only be necessary for the minutes to so state.
- c. The official record of a Town Council meeting shall be the Town's electronic recording of the meeting, if any, and in the absence of an electronic recording or in the event of recording equipment malfunction, the official record shall be the written meeting minutes.
- d. A Councilmember shall have the privilege of having his or her statement on any subject then under consideration by the Town Council entered into the written minutes. Such request must be made before the Presiding Officer puts the question to a vote and must be accompanied by the statement, "For the Record," to alert the Town Clerk of the need to include such remarks in the written minutes. A Councilmember's lengthy statement for the record is strongly encouraged to be submitted to the Town Clerk in writing prior to the meeting. At the Town Clerk's discretion, unwritten lengthy oral statements may be summarized in the written minutes with attribution to the speaker.
- e. Minutes of a previous meeting will not be read provided each member of Town Council has been provided access to a copy of the minutes in advance of the meeting at which the minutes are to be approved. Written minutes shall be initially set for approval on a consent agenda. Any Councilmember may request that the minutes be removed from the consent agenda for full discussion and consideration of proposed amendments or revisions by the Town Council prior to any motion for approval. Every Councilmember may, at the member's option, vote to approve or reject the minutes of any meeting notwithstanding such member's absence from the meeting.

- f. At any time prior to the Town Clerk's certification of the minutes as approved by the Town Council, the Town Clerk may change the minutes to correct spelling or typographical errors, provided that such change does not alter the substance or meaning of the minutes.
- g. The Clerk of the meeting at which the minutes are approved shall sign the approved minutes.

2.11 Agenda and Order of Business

- a. A regular meeting of the Town Council will have an established order of business generally along the following guidelines which may be modified by the Presiding Officer in accordance with the Rules of Order:
 - 1. Call to Order, Roll Call
 - 2. Approval of Agenda
 - 3. Recognitions, proclamations, and appointments
 - 4. Communications to Council
 - 5. Consent agenda (handling of routine business)
 - A. First Reading of Ordinances
 - B. Resolutions
 - C. Approval of Town Council Minutes
 - D. Excused Absences
 - 6. Discussion Business
 - A. Consideration of Ordinances (second reading/public hearing)
 - B. Resolutions
 - C. Other
 - 7. Planning Matters
 - 8. Reports
 - 9. Other Matters
 - 10. Adjournment

2.12 Setting Agendas

The Mayor and the Town Manager have the task of setting the meeting agendas for regular and special meetings and for work sessions of the Town Council. In addition, two members of the Town Council may request that the Town Manager place an item on a meeting agenda.

2.13 Requesting Future Agenda Items

Any Councilmember, the Town Manager, or the Town Attorney may request that the Town Council formally consider any Town business or other matter of public interest at a future meeting by raising the request with the Town Council during any **regular** meeting. Upon confirmation by a consensus of the Town Council that the Town Council desires to entertain consideration or review of the proposed business or matter, the Presiding Officer

shall instruct the Town staff to set the matter on the next available agenda or on the agenda of a specific meeting.

2.14 Adjournment of Regular Meetings by 9:00 p.m.

A Town Council regular meeting shall customarily adjourn at or before 9:00 p.m. Extending a regular meeting beyond 9:00 p.m. shall require approval of a motion to suspend the required adjournment requirement. A motion may propose to limit the agenda matters to be considered after 9:00 p.m. and/or set a later time for adjournment.

As an express condition of adjournment, the Town Council shall formally move to continue or postpone all agenda items that will not be considered following adjournment in accordance with the Rules of Order.

III. **Meeting Procedures.**

3.1 Parliamentary Rules/Rules of Order

- a. Bob's Rules of Order for Colorado Local Governments (Peak Nine Press 2023) shall be the parliamentary rules of order for meetings of the Town Council ("Rules of Order").
- b. The following additional rules shall be incorporated into the Rules of Order:
 1. A Councilmember shall not engage in the review or transmission of electronic mail or other forms of digital communications or be connected to the Internet during any quasi-judicial matter.
 2. Addressing the Town Council – Time Limitations.
 - (i) Councilmember's access to the floor when addressing the Town Council shall be limited in time as provided by the Rules of Order;
 - (ii) Guests, presenters, and speakers invited to present to the Town Council shall be limited in time as established or directed by the Presiding Officer; and
 - (iii) For all other persons wishing to address the Town Council (other than public hearings, see V. below), such persons shall be limited to three (3) minutes for any presentation unless the Presiding Officer establishes a different time limitation applicable to all such persons wishing to address the Town Council.
- c. Voting Methods.
 1. A simultaneous voice vote or show of hands shall generally be used provided that an announcement is made regarding the result of the

vote, including identification of Councilmember(s) voting on the non-prevailing side.

2. The Presiding Officer may direct a vote to be made by roll call. A roll call vote by voice shall be *required* for:
 - (i) All ordinances on final reading;
 - (ii) Any resolution appropriating or borrowing money;
 - (iii) Any resolution pertaining to new or existing taxes;
 - (iv) Any action concerning an initiative or referendum petition;
and
 - (v) Conveyance of interests in real property.
3. Manner of Roll Call. When roll call voting is used, the roll call vote shall be taken in alphabetical order in a rotating manner, as follows: on the first roll call vote for the meeting, the Town Clerk will begin with the first Councilmember's name on the list; on the second vote, the Town Clerk will begin with the second Councilmember's name on the list and end with the first Councilmember name on the list, and continue to rotate the order in this manner. Such rotation will continue without interruption from meeting to meeting.

3.2 Meeting Decorum

- a. For regular and special meetings, each Councilmember shall be addressed as Mr./Ms. (last name) or Councilmember (last name); the Mayor shall be addressed as Mr./Ms. Mayor or Mayor (last name); Town staff, citizens, consultants, contractors shall be addressed as Mr./Ms. (last name). A less formal recognition of Councilmembers and others shall be acceptable for study or work sessions and executive sessions.
- b. At any regular or special meeting of the Town Council, any member of the public desiring to address the Town Council shall first secure the permission of, and be recognized by, the Presiding Officer.
- c. Each person addressing the Town Council shall be asked to provide his or her name and address for the record. All comments shall be addressed to the Presiding Officer and to the Town Council as a body and not to any particular Councilmember thereof or to other members of the audience.
- d. Actions which unreasonably disrupt a meeting shall be out of order. "Disrupt" shall mean evidently intended or designed to prevent, or reasonably preventing, the Town Council from conducting business. Disruptive actions may include, but not limited to: (i) constant or consistent shouting following the Presiding Officer's request to speak in a conversational voice; (ii) the use of horns, bells, or other sources of unwanted and unnecessary sound or noise; (iii) repeated speaking or interruption of the meeting without first obtaining the floor or without being acknowledged by the Presiding Officer; or (iv) threats of harm or violence.

Refusal to heed requests to cease disruption may subject the person to removal from the meeting.

- e. The use of amplified sound or noise in any meeting shall not be permitted unless approved by the Presiding Officer as a necessary part of a presentation by a speaker. The Town's use of methods to amplify the voices of the Councilmembers shall be permitted.
- f. To prevent obstructing the view and hearing of persons attending a meeting, posters, banners, signs, or other forms to display shall be permitted in meeting rooms provided that such items or materials are placed against and along the side perimeter walls of the room in a manner not to interfere with access or the safety of attendees. No posters, banners, signs, or other forms to display shall be located behind the Town Council dais. The Presiding Officer may designate the appropriate location(s) for posters, banners, signs, or other forms to display.

IV. **Procedure for Passage of Ordinances (Charter § 6.5)**

The procedure for the passage of an Ordinance, other than an Emergency Ordinance, shall be as follows:

- a. Introduction (first reading) of the Ordinance at any regular or special meeting and vote by the Town Council in accordance with the voting requirements established by the Charter to move the proposed legislation forward to the second reading. Introduction and first reading of the Ordinance may be by placement on the Town Council's consent agenda for such meeting.
- b. If the Ordinance is passed upon first reading, publicizing by title only and in accordance with the requirements, methods, and procedures for publicizing Ordinances as adopted by the Town Council by Ordinance.
- c. Consideration of the Ordinance on second reading at a meeting not earlier than six (6) days after the first reading.
- d. Public hearing on the Ordinance (See V. Below).
- e. Roll call vote of the Town Council on the Ordinance following the public hearing.
- f. Any ordinance may be amended before final passage by a roll call of the Town Council.
- g. After final passage, the Town Clerk shall publicize the Ordinance by title only with the statement that the full text is available for public inspection and acquisition in the office of the Town Clerk. Whenever possible, publicizing shall be within ten (10) days after final passage.

- h. Unless a later date is specified in the text of the Ordinance, an Ordinance other than an Emergency Ordinance shall take effect and be enforced thirty (30) days after final publication.

V. **Public Hearings – Procedures.**

Public hearings required by law shall be conducted in general accordance with the following procedures. Deviations from these procedures that do not substantially affect the fairness and outcome of the hearing shall be permitted with or without approval of the Town Council.

- a. Town Clerk shall read the title or subject matter of the item into the record.
- b. The Presiding Officer, in the order indicated, will:
 - 1. Declare the public hearing open;
 - 2. Announce the public hearing procedures (if such procedures were not previously explained to the audience in a prior hearing during the same meeting);
 - 3. Establish, when determined to be necessary, reasonable time limits for the presentation to the Town Council of public comments and testimony during the hearing. Where no other time limits are established:
 - (i) Town staff or Town consultants shall not be limited except as directed by the Presiding Officer;
 - (ii) An applicant, permittee, or petitioner (or their representative) whose property or other legal rights are the subject of determination during the public hearing shall not be subject to time limitations provided that the applicant, permittee, or petitioner avoids redundant and duplicative testimony or presentation of evidence;
 - (iii) Scheduled speakers invited to present information to the Town Council shall not be subject to time limitations except as directed by the Presiding Officer; and
 - (iv) All other persons shall be limited to three (3) minutes;
 - 4. Ask for an introductory presentation by the Town Administration, if appropriate;
 - 5. Ask for the applicant's, permittee's, or petitioner's presentation, if appropriate;
 - 6. Provide opportunity for public presentation by those who are in favor of the matter, opposed to the matter, or who may have general questions regarding the pending matter.

7. Any person speaking or presenting any information at the hearing may be questioned by the Town Council and, with the consent of the Presiding Officer, by the Town Administration.
 8. The Presiding Officer will ask, at times during the hearing determined by the Presiding Officer, if any member of Town Council has any questions of, or desires any additional information from, anyone who has spoken or has presented information during the hearing. If such is the case, a member of Town Council may direct the question and/or request through the Presiding Officer to such individual and the response will be limited to the answer of the question, as stated.
- c. Cross-examination of persons providing testimony or evidence shall not be permitted.
 - d. The Presiding Officer may, on his/her own initiative or at the request of a Councilmember or the applicant, permittee, or petitioner, afford the applicant, permittee, or petitioner an opportunity to rebut or address statements or testimony presented by the general public or Town Administration. Rebuttal shall be limited only to subjects and matters raised during the hearing and is not intended to provide an opportunity for the applicant, permittee, or petitioner to present new evidence or information not offered during the main presentation. The Presiding Officer may, in the Officer's discretion, provide an opportunity for the general public to address issues, information, or matters newly raised during a rebuttal.
 - e. Following questions from Town Council, the Presiding Officer will declare the public hearing closed and the matter will be remanded to the Town Council for consideration.
 - f. Upon the closure of the public hearing, the Town Council will seek to avoid additional questioning of any hearing participant except as may be found necessary by the Presiding Officer to quickly clarify a factual question or resolve a factual matter of dispute between members of the Town Council. No additional unsolicited testimony shall be entertained or accepted by the Town Council. The public hearing may only be reopened for good cause shown by a majority vote of the quorum present and only for the sole purpose of receiving specifically identified and focused testimony. In the event a public hearing is reopened, all persons in attendance shall be provided an opportunity to provide testimony regarding the specifically identified matter for which the hearing was reopened.
 - g. The Town Council may, with leave of the Presiding Officer, request legal advice or direction from the Town Attorney at any time.

VI. Amendments.

These Bylaws may be amended by a majority vote of Councilmembers present at a Town Council meeting at which a quorum exists. Any proposed amendments shall be submitted in writing to each member of Town Council at least two (2) weeks in advance of the Town Council meeting at which such amendments are to be considered.

ADOPTED BY THE TOWN COUNCIL THIS 9th DAY OF APRIL, 2024; AMENDED ON THIS 12th DAY OF NOVEMBER.

TOWN OF KEYSTONE, COLORADO

STAFF REPORT

TO: Mayor & Town Councilmembers
THROUGH: John Crone, Town Manager
Jennifer Madsen, Town Attorney
FROM: Lindsay Hirsh, Community Development Director
DATE: November 12, 2024 – Council Meeting
SUBJECT: Resolution 2024-70, A Resolution of Town Council of the
Town of Keystone, Colorado, Authorizing an
Intergovernmental Agreement for the Continuation of
Summit County Building Inspection Services

Executive Summary:

The resolution is for approval of an Intergovernmental Agreement with Summit County to continue providing the same Building Inspection services it has been providing within the boundaries of the newly incorporated Town of Keystone (“Transition IGA”).

Recommendation:

The Community Development Director, Town Manager and Town Attorney recommend approval of the attached resolution.

Background:

The Town and the County entered into the initial IGA with the County for Building Department services when the Town formally incorporated and expires on December 31, 2024. The Town’s Community Development Department does not currently have sufficient staffing or expertise to perform building permit plan review and permitting services. The Building Inspection Department’s responsibilities include performance of plan review, inspection, and permitting services for construction projects occurring within the Town limits. The attached IGA will be in effect January 1, 2025, and will

automatically renew on an annual basis, unless terminated. Staff believes that the over the last 9 months the process and coordination with the review and issuance of building permits has worked well and an additional year will allow the Town to further evaluate the process and additional options.

Alternatives:

Direct Staff to further investigate other alternatives to contract out building inspection services.

Financial Considerations:

Pursuant to the terms of the Transition IGA, Summit County will retain all 90% of associated building permit fees.

Previous Council Actions:

Approval of initial IGA.

Next Steps:

The Community Development Director will work with the County on continued building services operations.

Suggested Motions:

I move to APPROVE Resolution 2024-70, Authorizing Intergovernmental Agreement for Continuation Of Services By Summit County And Consenting To Enforcement Of Summit County Regulations

I move to DENY Resolution 2024-70, Authorizing Intergovernmental Agreement for Continuation Of Services By Summit County And Consenting To Enforcement Of Summit County Regulations

Attachment:

- Resolution 2024-070, Authorizing Intergovernmental Agreement for Continuation Of Services By Summit County And Consenting To Enforcement Of Summit County Regulations

**TOWN OF KEYSTONE
Summit County, Colorado**

RESOLUTION 2024-70

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO
AUTHORIZING INTERGOVERNMENTAL AGREEMENT FOR CONTINUATION OF
THE SUMMIT COUNTY BUILDING INSPECTION SERVICES**

WHEREAS, upon the incorporation of Keystone, Summit County shall continue to provide County services pursuant to Section 31-2-108, C.R.S.; and

WHEREAS, pursuant to the provisions of § 18 of Article XIV of the Colorado Constitution, § 29-1-203, C.R.S., as amended, and other applicable authority, the Keystone and Summit County may cooperate or contract with one another to provide any function, service or facility lawfully authorized to each; and

WHEREAS, the Summit County has agreed to continue to provide Building Inspection Services to Keystone as provided in the attached intergovernmental agreement; and

WHEREAS, it is the intent of the Town Council to implement the goal of continuing services by Summit County to Keystone and its inhabitants with a minimum disruption, change or reduction.

Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:

Section 1. The Town requests Summit County to continue providing to Keystone and its inhabitants those same services that have been provided by Summit County to the area encompassed by Keystone prior to its incorporation.

Section 2. The Town Council authorizes the execution of the intergovernmental agreement with Summit County ("Building Inspection Services IGA) to continue services in Keystone as attached in Exhibit A. The Town Manager is authorized to execute the Transition IGA in substantially the form attached in Exhibit A.

Section 3. Related to the provision of building services, pursuant to C.R.S § 30-15-401(8), the Town hereby consents to the provision and enforcement within Town boundaries of the County building rules, regulations, ordinances, codes or other tools, including 2018 edition of the International Building Code, 2018 edition of the International Residential Code, 2018 edition of the International Mechanical Code, 2018 edition of the International Plumbing Code, 2018 edition of the International Fuel Gas Code, 2018 edition of the International Existing Building Code, 2018 edition of the International Energy Conservation Code, 2023 National Electrical Code, 2018 edition of the International Swimming Pool and Spa Code, 1997 edition of the Uniform Code for Building Conservation, and 1997 edition of the Uniform Code for the Abatement of Dangerous Buildings and all amendments thereto. The Town hereby consents to the provision and

enforcement of any future amendments or updates to the Summit County Building Code adopted by the County.

Section 4. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

ADOPTED by a vote of __ in favor and __ against, this _____ day of _____, 2024.

By: _____
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: _____
Town Clerk

By: _____
Town Attorney

EXHIBIT A

**INTERGOVERNMENTAL AGREEMENT FOR THE PROVISION OF
BUILDING INSPECTION SERVICES**

THIS INTERGOVERNMENTAL AGREEMENT FOR THE PROVISION OF BUILDING INSPECTION SERVICES (the "IGA") is made and entered into this 1st day of January, 2025, by and between the Board of County Commissioners of Summit County, Colorado, a political subdivision of the State of Colorado, (the "County"), on behalf of its Summit County Building Inspection Department ("Building Inspection Department") and the Town of Keystone, a Colorado municipal corporation (the "Town"). The Town and the County shall be referred to together herein as the "Parties."

WITNESSETH:

WHEREAS, the County operates its Building Inspection Department for purposes of ensuring that construction activity in unincorporated Summit County is conducted in compliance with the Summit County Building Code, as amended; and

WHEREAS, the County's Building Inspection Department's responsibilities include performance of plan review, inspection, and permitting services for construction projects occurring within the unincorporated area of Summit County, Colorado; and

WHEREAS, the Town operates a Community Development Department for purposes of ensuring that construction activity in the incorporated areas of Keystone is conducted in compliance with the Towns Land Use and Development Code; and

WHEREAS, at this time the Town has not adopted its own Keystone Building Code, and the Community Development Department does not have sufficient staffing to perform the plan review and permitting services identified herein for construction projects occurring within the Town; and

WHEREAS, the County has an adopted building code and has sufficient staff necessary for performing the herein described services in both the County and Town's jurisdictions; and

WHEREAS, the Town desires that the County's Building Inspection Department perform the plan review and inspection services described in this IGA for construction projects occurring within the incorporated areas of the Town; and

WHEREAS, pursuant to the provisions of Section 18 of Article XIV of the Colorado Constitution, C.R.S. § 29-1-203 and other applicable authority, the Parties may cooperate or contract with one another to provide any function, service or facility lawfully authorized to each; and

WHEREAS, the County and the Town hereby find it to be feasible, desirable and in the interest of public health, safety and welfare that the Parties enter this IGA for the purpose of utilizing the County Building Inspection Department's existing capability to perform the Services in the Town's incorporated areas in accordance with the terms and conditions of this IGA.

NOW THEREFORE, in consideration of the above recitals, which are hereby incorporated into the terms of the IGA set out below, in consideration of the mutual covenants, performances, and agreements hereafter set forth, and for such other valuable consideration the receipt and sufficiency of which is hereby acknowledged, the County and Town hereby mutually understand, covenant, and agree as follows:

A. Purpose. The purpose of this IGA is to state the Parties' mutual and respective obligations regarding the Summit County Building Inspection Department's provision of certain below described construction administration services on the Town's behalf for construction projects occurring within the incorporated area of the Town (the "Town's Jurisdiction").

B. Appointment. The Town hereby appoints and authorizes the County, through its Building Inspection Department, to perform certain plan review and building, energy, plumbing, mechanical, fuel gas and electrical inspection services for properties lying within the Town's Jurisdiction in accordance with the terms and conditions of this IGA (the "Services").

C. Services. The County shall provide the Services hereunder in accordance with all applicable requirements of the County adopted building code and local ordinances.

D. Plan Review Services. The Town will utilize the County Building Inspection Department for the performance of the below described permit application plan review Services ("Plan Review Services"). Administration of Plan Review Services hereunder shall be as follows:

1. After completing its own construction plan review process, the Town will forward permit applications to the County's Building Inspection Department for its performance of Plan Review Services on the Town's behalf.

2. The County Building Inspection Department shall perform its Plan Review Services in accordance with the terms, requirements and conditions of the County adopted building, energy, plumbing, mechanical, fuel, gas, and electrical Codes.

E. Permit Inspection Services. The Town will utilize the County's Building Inspection Department for performance of building, mechanical, plumbing, electrical, fuel, and gas permit inspection services ("Permit Inspection Services"). Administration of Permit Inspection Services hereunder shall be as follows:

1. All requests for Town Permit Inspection Services shall be scheduled directly through Summit County's Etrakit program.

2. The County's Building Inspection Department will perform the subject Permit Inspection Services on the day the inspection is scheduled.

F. Fee Collection Retention and Reimbursement. The County shall collect and retain all permit fees in the amounts described in the Summit County Building Department Fee Schedule.

a. The County shall reimburse the Town 10% of Building Permit Plan Review Fees collected by the County, because the Town is providing Planning and Zoning Services, and the Town will perform plan review related to evaluation of compliance with the Town's Land Use and Development Code.

b. The County agrees to reimburse the Town its share on or by the 30th day of the month for the plan review fees collected the previous month.

G. Consent to enforcement of ordinances and resolutions. Pursuant to C.R.S § 30-15-401(8), the Town hereby consents to the provision and enforcement within Town boundaries of the County building rules, regulations, ordinances, codes or other tools, including 2018 edition of the International Building Code, 2018 edition of the International Residential Code, 2018 edition of the International Mechanical Code, 2018 edition of the International Plumbing Code, 2018 edition of the International Fuel Gas Code, 2018 edition of the International Existing Building Code, 2018 edition of the International Energy Conservation Code, 2023 National Electrical Code, 2018 edition of the International Swimming Pool and Spa Code, 1997 edition of the Uniform Code for Building Conservation, and 1997 edition of the Uniform Code for the Abatement of Dangerous Buildings and all amendments thereto (hereinafter "Summit County Building Code"). The Town hereby consents to the provision and enforcement of any future amendments or updates to the Summit County Building Code adopted by the County.

H Term and Termination. This IGA, as amended, shall be effective on the date first written above and shall automatically renew for annual one-year periods beginning January 1 and terminating on the next subsequent December 31, unless otherwise terminated by either party upon giving 30 days written notice to the other party. Either party may terminate this IGA at any time, without cause, upon thirty days prior written notice to the other Party.

I. County Employees Not Town Employees or Contractors. The County staff, its officers, employees, and agents shall remain employees of the County and shall not, for any reason, be considered to be staff, officers employees, agents, or contractors of the Town.

J. Entire Agreement. This IGA, as amended, constitutes the entire agreement between the Parties with respect to the matters herein discussed and contains all the terms and conditions agreed upon by the Parties.

K. Modification. No modification, amendment, alteration, or variation hereto shall be valid unless made in writing and signed by the Parties and no oral understanding or agreement shall be binding on the Parties.

L. Indemnification. To the extent allowed by law, the Parties shall each indemnify, keep and hold the other harmless from and against all liabilities, judgments, costs, damages, losses, and expenses, including court costs and attorney's fees, of and from any claims arising out of or resulting from acts or omissions of their respective employees, contractors, officers or agents during their respective performance of the Services hereunder.

M. Insurance. The Parties shall each obtain and maintain at all times during the term of this IGA, liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Governmental Immunity Act, CRS § 24-10-101, et seq.. Upon request by either party, the other party shall show proof of such insurance.

N. Government Immunity. Nothing in this IGA shall be construed as waiving the rights and privileges of any of the Parties under the Colorado Governmental Immunity Act, or other applicable authority, with respect to any other person, entity, or third party.

O. Notification. All notices in connection with this IGA must be in writing and signed by the party giving notice. Notice will be deemed properly delivered and received when personally

delivered or upon deposit in the United States mail, first class postage prepaid. All such notices or other instruments will be addressed to the party at the address below or to such other addresses as the party may designate by written notice:

Summit County Government:
Attn: Building Official
Summit County Com Dev Dept
P.O. Box 5660
Frisco, CO 80443

Town of Keystone
Attn: Community Development Director
Keystone Community Development Dept
1628 Sts John Rd
Keystone, CO 80435

P. Assignment and Subcontracting. This IGA is predicated upon County's and Town's special authority, abilities and/or knowledge, and neither Party hereto may assign this IGA or its respective obligations hereunder, in whole or in part. Neither Party may subcontract its responsibilities hereunder to any non-Party hereto without the other Party's prior written consent.

Q. Annual Appropriation. Notwithstanding any other provision to the contrary, this Agreement is dependent upon the Town and the County appropriating sufficient funds for payment of fees due under this Agreement or necessary to perform the services for such subsequent fiscal year.

R. Third Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of the IGA, and all rights and actions relating to such enforcement shall be strictly reserved to the County and Town and nothing contained in this IGA shall give or allow any such claim or right of action by any other or third person on this IGA. It is the express intention of the County and Town that nothing contained in this IGA shall give or allow any claim of right of action by any other third person. It is the express intention of the County and the Town that any person or entity other than the County and the Town receiving services or benefits arising from the performance of this IGA shall be deemed to be an incidental beneficiary only.

S. Applicable Law. At all times during the performance of this IGA, the Parties shall each strictly adhere to all applicable federal, state, and local laws, rules, and regulations that have been or may hereafter be established, and all work performed under this IGA shall comply with Federal, State, and local laws, rules and regulations. This IGA shall be interpreted in all respects in accordance with the laws of the State of Colorado. Venue shall only be proper in Summit County Colorado.

T. Waiver. A Party's waiver of any breach or failure to enforce any of the terms, covenants, conditions, or other provisions of this IGA at any time shall not in any way affect, limit or modify or waive that Party's right thereafter to enforce or compel strict compliance with every term, covenant, condition, or other provision of this IGA.

U. Severability. In case one or more of the provisions contained in the IGA, or any application hereof, shall be invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in the IGA and the application thereof shall not in any way be affected or impaired thereby.

V. Counterparts. This IGA may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

W. Paragraph Headings. Paragraph headings are inserted for convenience only and in no way limit or define the interpretation to be placed upon this IGA.

DONE AND SIGNED effective the date first written above.

SUMMIT COUNTY, COLORADO

TOWN OF KEYSTONE

By: David Rossi, County Manager

By: John Crone, Town Manager

Date: _____

Date: _____

TOWN OF KEYSTONE, COLORADO

STAFF REPORT

TO: Mayor & Town Councilmembers
THROUGH: John Crone, Town Manager
Jennifer Madsen, Town Attorney
FROM: Joshua Weber, Director of Public Works
DATE: November 12, 2024 – Council Meeting
SUBJECT: Resolution 2024-71, A Resolution of Town Council of the
Town of Keystone, Colorado, Approving Maintenance of
Certain Roads

Executive Summary:

Staff was instructed by the Council to identify roads for which the Town should take over maintenance responsibility. Resolution 2024-69 directs staff to take the necessary steps to take over responsibility for certain roads that meet criteria as defined by the Town Council.

Background:

The Council has shown an interest in taking responsibility for the plowing and maintenance of certain roads in Keystone. The Council created a multi-phase approach to identify roads in Keystone Town limits for maintenance. The first roads identified for inclusion meet the criteria that was set forth by Council.

Staff has been directed by Council to follow a certain criterion and compile a list of roads that meet those criteria for acceptance of maintenance responsibility. The roads identified in this report are the first phase of a multi-phase assumption of road maintenance. The criteria are as follows:

Public R.O.W. that is built to Town of Keystones Standards AND

Is a road serving a major arterial route AND/OR

Is a road serving major public transportation, AND/OR

Is a road that provides access to Town of Keystone facilities or spaces

The following have been identified by Town Staff for the consideration of maintenance:

Roads Identified for Inclusion

- **Saints John Rd.** From HWY 6 to Condo Parking beginning, 0.26 mile
- **Decatur Hill Rd.** From Entrance on HWY 6 to Clearwater Dr., 0.08 mile
- **Tennis Club Rd.** Entirety, 0.65 mile
- **Elk Spur Ln.** Entirety, 0.07 mile
- **Gondola Rd.** Entirety, 0.29 mile
- **Antlers Gulch Rd.** From Wintergreen Property line to HWY 6, 0.09 mile
- **Oro Grande,** From HWY 6 to Norse Rd. 0.09 mile
- **River Run Rd.** From E. Keystone Rd to Alcove Ct., 0.33 mile
- **Ida Belle Dr.** Entirety, 0.30 mile
- **Dercum Dr.** Entirety, 0.08 mile
- **W. Independence Rd.** From Paulson Place to Independence Lane, 0.1 mile
- **Independence L.** Entirety, 0.15 mile
- **E. Independence Rd.** From Montezuma Rd to Independence Ln., 0.35 mile

Alternatives:

Private entities will retain responsibility for road maintenance.

Financial Considerations:

Financial Impact is approximately \$90,000 annually.

Previous Council Actions:

None.

Suggested Motions:

I move to APPROVE Resolution 2024-71, Resolution of Town Council of the Town of Keystone, Colorado, Approving Maintenance of Certain Roads

I move to DENY Resolution 2024-71, Resolution of Town Council of the Town of Keystone, Colorado, Approving Maintenance of Certain Roads

Attachment:

- Resolution 2024-70 – A Resolution of Town Council of the Town of Keystone, Colorado, Approving Maintenance of Certain Roads

TOWN OF KEYSTONE
Summit County, Colorado

RESOLUTION 2024-71

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE APPROVING
MAINTENANCE OF CERTAIN ROADS**

WHEREAS the Town of Keystone (“Town”) is a home rule municipality governed by the Keystone Home Rule Charter; and

WHEREAS, the Town Council finds the responsibility for maintenance of certain roads within Town limits has historically been inequitable, and

WHEREAS, the Town Council has determined that the following criteria should be used to determine which roads the Town of Keystone will take responsibility for maintenance:

- 1) Public R.O.W. that is built to Town of Keystones Standards, and
- 2) Is a road serving a major arterial route, and/or
- 3) Is a road serving major public transportation, and/or
- 4) Is a road that provides access to Town of Keystone facilities or spaces, and

WHEREAS, the Staff has identified several roads that meet the criteria for maintenance responsibility for the Town of Keystone as identified in Exhibit A,

WHEREAS, the Town Council finds it is the best interest of the Town and equitable to all citizens if the Town of Keystone takes responsibility for the roads attached as Exhibit A.

Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:

Section 1. The Town Council Instructs Staff to take necessary steps for the Town of Keystone to assume responsibility for the maintenance of the roads described in Exhibit A (attached). The Town Manager is authorized to make any edits.

Section 2. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

ADOPTED by a vote of __ in favor and __ against, this 12TH day of November 2024.

By: _____
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: _____
Town Clerk

By: _____
Town Attorney

Exhibit A

- **Saints John Rd.** From HWY 6 to Condo Parking beginning, 0.26 mile
- **Decatur Hill Rd.** From Entrance on HWY 6 to Clearwater Dr., 0.08 mile
- **Tennis Club Rd.** Entirety, 0.65 mile
- **Elk Spur Ln.** Entirety, 0.07 mile
- **Gondola Rd.** Entirety, 0.29 mile
- **Antlers Gulch Rd.** From Wintergreen Property line to HWY 6, 0.09 mile
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